

**NOMINATIONS OF CLAUDE ALLEN,  
THOMAS SCULLY, PIYOSH JINDAL,  
LINNET F. DEILY, PETER ALLGEIER,  
PETER R. FISHER, AND JAMES GURULE**

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**HEARING**

BEFORE THE

**COMMITTEE ON FINANCE  
UNITED STATES SENATE**

**ONE HUNDRED SEVENTH CONGRESS**

**FIRST SESSION**

**ON THE**

**NOMINATIONS OF**

CLAUDE ALLEN TO BE DEPUTY SECRETARY OF THE DEPARTMENT OF HHS; THOMAS SCULLY TO BE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HHS; PIYOSH JINDAL TO BE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, DEPARTMENT OF HHS; LINNET F. DEILY TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT; PETER ALLGEIER TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT; PETER R. FISHER TO BE UNDER SECRETARY OF THE TREASURY FOR DOMESTIC FINANCE; AND JAMES GURULE TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT

**MAY 16, 2001**



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**NOMINATIONS OF CLAUDE ALLEN TO BE DEPUTY SECRETARY OF THE DEPARTMENT OF HHS; THOMAS SCULLY TO BE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HHS; PIYOSH JINDAL TO BE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, DEPARTMENT OF HHS; LINNET F. DEILY TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT; PETER ALLGEIER TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT; PETER R. FISHER TO BE UNDER SECRETARY OF THE TREASURY FOR DOMESTIC FINANCE; AND JAMES GURULE TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT**

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**WEDNESDAY, MAY 16, 2001**

**U.S. SENATE,  
COMMITTEE ON FINANCE,  
*Washington, DC.***

The hearing was convened, pursuant to notice, at 1:30 p.m., in room SD-215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Present: Senators Hatch, Baucus, Rockefeller, and Breaux.

Also present: Senator Mary Landrieu.

**OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. Good afternoon, everybody. Particularly welcome to our distinguished guests who have been recently appointed to very responsible positions. We congratulate you and welcome you to a part of the process that we do not think, at least as far as each of you is concerned, is going to be very difficult, although it may be time consuming.

For the public at large and for the family members who are proud of the people who are at the table, we welcome you as well.

I am glad that the administration is making such progress in getting nominees in place. In fact, I understand that the Department of Health and Human Services will have only two more nominees requiring a hearing before this committee after today.

And I want to note the importance of these key appointees in getting our legislative work done. For instance, Mr. Allen, Mr. Scully, and Mr. Jindal will play very crucial roles in the committee's effort to strengthen and reform Medicare. And I am determined to accomplish that goal this year. And I will be glad to have each of your assistance.

Mr. Allgeier and Ms. Deily will provide important direction for the Office of the Trade Representative. I am confident that their guidance and expertise will help restore America's leadership in the world.

The first step in that direction, of course, will occur next month when I hope that the Finance Committee will consider and approve legislation to renew the President's trade promotion authority. I am determined to accomplish that goal this year, as well.

And when Senator Baucus comes, I am going to stop for him to give an opening statement.

Did you want to speak for the Democrats or not?

Senator BREAUX. No. [Laughter.]

The CHAIRMAN. As a friend, I should not have put you on the spot.

Well, anyway, when Senator Baucus comes, obviously we will stop and let him give an opening statement.

Senator BAUCUS. I am ready for you now. Is that all right?

The CHAIRMAN. Here is Senator Baucus. So we will hear his points. And then, we will continue.

#### **OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA**

Senator BAUCUS. Thank you, Mr. Chairman. Welcome, nominees. Mr. Chairman, there are a couple of points I want to make. First, I want to say that I am very proud of this committee's record of promptly moving the nominees forward.

It is something that I thought was important, Mr. Chairman, during those 17 glorious days when somebody else was Chairman of this committee. [Laughter.] And I think it is important regardless of whether that person is Chairman of the committee. It is just that it is a good thing for this committee to be doing. And I compliment you, Mr. Chairman, for all that you are doing.

As you know better than anybody else in the universe, you and I are working very closely on the latest tax measure that was passed. And we are finding time nevertheless to hold this hearing, again demonstrating that we want to move very quickly.

It is important to have our people in place. And I know that there is a lot of frustration around the country. The fact that the nominees are not confirmed, positions are not being filled right away. That happens with all administrations.

I particularly want to commend this administration for moving very quickly. And I would like to see these candidates get confirmed as quickly as we possibly can.

First, a couple of words about Tom Scully. He is a good guy. He brings a wealth of experience to HCFA. It is my understanding that maybe soon someone might have an idea of coming up with a new name for that organization. He brings a wealth of experience and has a very fine reputation of working with members on both sides of the aisle.

I know that we all will be working very closely with Mr. Scully on Medicare reform, on prescription drug benefits, as well as Medicaid and CHIP and many other issues that come before that agency. And I also know that he will be taking a good look at HCFA generally in its operations, how to make it more user friendly.

I wish you, Tom, good luck. It is a big agency, but I know you will do a very good job.

A few points about trade policy. When Trade Ambassador Bob Zoellick appeared before this committee before his confirmation hearing, I said that there were three items that I would pursue with each deputy nominee, that is the appointment of the Assistant USTR for Trade and Labor, as well as departmental reviews of trade negotiations and the United States-Jordan FTA.

Of these matters, the Jordan agreement is the most outstanding one. That agreement would enhance our commercial relationship with a very important partner and help to bring peace and stability in the middle east. I believe that implementing that legislation should be a top priority.

I also hope that the administration will soon submit for approval the United States-Vietnam bilateral trade agreement signed last year. That agreement has been a long time coming. It provides a sound foundation on which to develop commercial relationships.

Finally, I hope that the administration remains as committed as the last was to working with Vietnam on the improvement of labor and environmental standards in conjunction with the expansion of trade and investment.

Getting the Jordan and Vietnam agreements through Congress required strong support at the highest levels of the administration. And I hope that the deputy USTR nominees before us today are committed to that goal.

I know many of my colleagues will pass this issue before the Senate confirms the USTR nominees.

With that, Mr. Chairman, I look forward to the testimony that we will be receiving. There is a lot of work ahead of us not only now, but in the remaining months and years.

And in good faith, work together, listening to each other, remembering that the American people want results, that they are fair, they are reasonable, we will do well.

Thank you.

The CHAIRMAN. Thank you, Senator Baucus.

I think now, Senator Breaux, would be a good time because I know that you wanted to introduce your constituent, a person that has appeared before our aging committee.

Senator BREAU. Thank you very much, Mr. Chairman and Senator Baucus for having this hearing. You are right. I mean, these appointees really need to be confirmed and start getting to work in their official capacities.

I just want to say to all of them, thank you for being willing to serve in your government. All of you I know come from backgrounds of which you were probably doing substantially better financially than you are going to be doing in the government. And I see most of your family behind you, nodding in agreement with regard to that statement. [Laughter.]

It is not one of you that would not be able to be doing substantially better in the private sector were you to choose to do so. So by serving your government, you will make a real contribution. Your families do, as well.

We are delighted to have so many children. And I guess it is all children. There are no grandchildren in the audience. But we are



delighted to have them because they are really part of this team that you have. And we are particularly pleased that they are here, as well.

I have worked very closely with Tom Scully. I am delighted to have Tom coming over to HCFA or whatever we are going to call it. I would hope that one of his charges will be to dramatically modernize and reform that very large bureaucracy, incredibly important bureaucracy.

And I am very delighted that Bobby Jindal is going to be over at HHS. Bobby, of course, for those who do not know it is from Baton Rouge, Louisiana. And he and I have had a long association professionally and also personally. He is a terrific addition to Secretary Thompson's team.

I think it is important that we have people who can run the day-to-day operations and people who can think outside of the box because we in Washington sometimes get locked into small boxes and we do not think outside those boxes. And I think that always has not produced very good public policy.

So we hope that both of you spend some time looking at ways to improve so that when you leave this position that you would have left a better place behind. And we desperately need help and assistance in doing that. We cannot do it without thinkers like both of you.

Bobby Jindal has had every job I can think of in Louisiana that is important. He is current the president of our university system which is eight universities.

And he was one of the chief staff assistants on our national Medicare commission and sort of rescued our Louisiana Medicaid program. And if anybody can do that, hell, you can do any job in the Federal Government. But you did it. You did it very well. And we are very proud of you and delighted to have you in your new position.

To all of our trade deputies, these are very important positions. I mean, you have an opportunity to really do some things that will make a difference in the lives of a lot of Americans in this country in particular.

So we wish you the very best and look forward to working with all of you, as well.

And, Mr. Chairman, having said that, I will yield back the time. The CHAIRMAN. Thank you very much.

Senator Baucus and I had hoped that we would have Wade Horn, a nominee for the Administration on Child and Family Services at HHS, in this hearing, but we have not completed a review of his materials. We are going to complete that review and hopefully schedule such a hearing for Mr. Horn very shortly.

Senator BAUCUS. If I might, Mr. Chairman?

The CHAIRMAN. Senator Baucus.

Senator BAUCUS. I will say that is no reflection on him whatsoever.

The CHAIRMAN. Yes.

Senator BAUCUS. It is a housekeeping matter that has to be dealt with.

The CHAIRMAN. Yes. Claude Allen will be Deputy Secretary, Department of Health and Human Services. We thank you.

Then, we have Thomas Scully to be Administrator of the Health Care Financing Administration, Department of Health and Human Services; Bobby Jindal to be Assistant Secretary for Planning and Evaluation, Department of Health and Human Services; Peter R. Fisher to be Under Secretary for Domestic Finance, U.S. Department of Treasury; James Gurule, to be Under Secretary of the Treasury for Enforcement, U.S. Department of Treasury, welcome; Linnet F. Deily, to be Deputy U.S. Trade Representative, with the Rank of Ambassador, Executive Office of the President; Peter Allgeier to be Deputy U.S. Trade Representative, with the Rank of Ambassador, Executive Office of the President.

We have so many nominees. And we are going to have some interruption for votes. So I was wondering if you and I could alternate so we can keep the hearing going.

But regardless, we have so many nominees, I am not introducing you at length. I hope that you would feel free to say things about your own personal background you want us to know and also then take the privilege and let us have the privilege of knowing who your family and friends are that are with you.

So I am going to go in the order that I just announced. They are not necessarily the order that you are sitting there. So maybe, I will have to keep reminding you.

We are going to go with Mr. Allen.

#### **STATEMENT OF CLAUDE ALLEN TO BE DEPUTY SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Mr. ALLEN. Thank you, Mr. Chairman, ranking member, Senator Breaux, and members of the committee. Thank you for this privilege to appear before you today to speak about the role of the Deputy Secretary for HHS. It is an honor to be considered for that. And I am deeply humble for the opportunity to serve in that position should I be confirmed.

Before I go any further, I would like to introduce my family whose without which I would not sit here today. First of all, I want to introduce my wife, Genise Mitchell Allen. She is here with us. And our three children, we have an 8 year-old, Claude Alexander, III and my 4 year-old, Lila is here somewhere. And we have a 1 year-old, Christian Isiah. And he is here. So he is stating his presence here. [Laughter.] I also have my mother-in-law. They have one grandmother living. And she is here, Barbara Mitchell from Barbados. So we do have some island connections there, as well.

I will be very brief. I just want to express the great desire, as Senator Breaux said, to have the opportunity to bring to bear what we have seen at the State level.

As Virginian's Secretary of Health and Human Services, I served Governor Jim Gilmore in that capacity for the last 3 and a half years. And the one of the things that we have been very successful to do is to see many initiatives in Virginia become successful by simply empowering people, empowering individuals to make their own decisions and by giving them the tools to do so.

And I want to share with you just briefly some of those areas we have talked about. I have had the privilege of meeting with some of the members and most of your staffs.

And we have talked a lot about these issues, ranging from welfare reform to mental health reform to seeing the Medicaid system streamlined to be serving individuals and serving and working with providers in a way that not only meets the end goal of ensuring that those, the least among us, have access to quality health care, but also to make sure that we are returning value for the taxpayer's dollars.

As the deputy, I will just mention a couple of things that we are excited in looking forward to working with. And that is looking at innovative ways to expand access and the quality of health care for children and the indigent.

And I believe that the Federal Government should give the States greater flexibility to develop efficient, cost effective health care, and only step in when the States are not measuring up. However, I also believe, like Secretary Thompson and the members of this committee, that the HHS secretariat should not be a rubber stamp for States and should carefully review State Medicaid waivers. And we will do that, should I become deputy, as well.

Indeed, there are many important issues before the Department of HHS that affect Americans in their day-to-day lives. And these include strengthening the Medicare system by including a prescription drug benefit, passing a Federal patient's bill of rights, and improving access to quality health care.

These are not partisan issues. And they are not issues that can easily be resolved or solved. These are issues that are fundamental to the American people and our health and well being. And I look forward to the privilege of working with you.

The last thing I will mention, it is honor, as I said in my statement. I want to submit it for the record. But the one area that I do want to pass on is I served here in the Senate on the Senate Foreign Relations Committee as a staffer. And I know the work that they put in to supporting the work of the members here.

But I remember also just very fondly my heritage, my grandfather and grandmother. Recently, we were reading an article about my grandfather, who at the age of 111, talked about what was important to him and what made him successful in life.

And there were three very simple things that he saw. One was having a clear understanding of what his mission in life was. That was, what was his duty to the public and his family? And he focused on that. He had a very strong marriage. And he relied upon that. He also remained very flexible in working with individuals to try to understand their needs and also to work to meet their needs.

In that spirit, I believe the role of the deputy in HHS is to be able to hear all sides, to work on all these issues, and to be very flexible to work and to address the concerns that members raise, but also individuals in our society, particularly those who are the least fortunate among us have, that we meet their needs and ensure that there is a safety net.

With that, I will stop and yield for any questions that you may have.

[The prepared statement of Mr. Allen appears in the appendix.]

Senator BAUCUS. Well, thank you very much. I think we will have to wait until each of you first give your statements and proceed from there.



Mr. Scully.

**STATEMENT OF THOMAS SCULLY TO BE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Mr. SCULLY. Senator Baucus, thanks. First, I guess if all Americans are as healthy as the Allens, we would have a trust fund for them if they all live to be 111. [Laughter.]

Thank you. It is an honor to be here today as President Bush's nominee for HCFA. And I have submitted a statement for the record which I will skip.

But I would like to introduce my wife, Anne, and my daughters, Julie and Cera.

Senator BAUCUS. Would you all stand, please?

Mr. SCULLY. And we have a 3 year-old daughter, Alexi, who I did not think was quite ready for the Senate Finance Committee. So she did not come today. Also, one of my brothers, my oldest brother, J.T., is here with his daughter, Taylor, somewhere in the audience. And I am not sure where.

Senator BAUCUS. J.T.

Mr. SCULLY. Finally, I would like to introduce Ruben Ken Shaw who is now the secretary of the Florida version of HCFA and is shortly going to be the deputy administrator of HCFA. Ruben is here some place.

Senator BAUCUS. Yes.

Mr. SCULLY. And Ruben is going to be spending more of his time in Baltimore, making sure the trains run on time and that we get the 5,000 people to Baltimore running efficiently. But he is very smart. He will be a great partner at HCFA. And I am sure you all will get to know him well.

Making HCFA more responsible to all of its constituencies, seniors, Congress most importantly, Medicaid beneficiaries, doctors, nurses, hospitals, and providers, is my number one goal.

As I have said in my written statement, I do not think when you run a \$400 billion program, you are ever going to be loved by everybody. I do not think that is possible. But we can and we will be much more efficient, much more timely, and much more responsible.

I have spent most of the last month as a consultant at HCFA. I think HCFA has great people, I am going to push them to be far better in explaining their policies and their decisions and their processes to everyone we deal with which is about more than a quarter of all Americans.

I also sincerely hope to work with you in the committee on President's Bush's major health initiatives which are reforming Medicare and adding a prescription drug benefit to Medicare. I also hope to work closely with the Governors to resolve our many and continuing Medicaid disagreements, hopefully making them all agreements.

Finally, I know that the President said, as did Claude, work closely to Congress to continue to find ways to expand coverage of the uninsured and provide more care for the indigent.

There is obviously a lot to do at HCFA. I am excited. I am ready to get going. We have recruited and are in the process of recruiting



a great at HCFA. And I am sure that we can and will make a difference.

And again, that you for the honor of having me before you today. [The prepared statement of Mr. Scully appears in the appendix.] Senator BAUCUS. Thank you, Mr. Scully. Mr. Jindal.

**STATEMENT OF PIYOSH JINDAL TO BE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Mr. JINDAL. Senator, thank you for the opportunity to address you and the committee. I do want to thank Senator Breaux for that very kind introduction, as well. I want to thank Senator Landrieu and Representative Tauzin and other members of the Louisiana delegation who offered to be here. I think they are a wonderful example of the opportunity to work together in a bipartisan way.

I have also submitted a formal statement which I will not read for you. I know that we are pressed for time.

I do want to introduce my wife, Ms. Sapria Jindal, who flew up here from Baton Rouge to be with us today.

I will mention a couple of highlights from the statement. And again, I will not read the entire statement for you. I started my career in health care working for the Louisiana Department of Health and Hospitals, working for our Governor Mike Foster. I am very grateful for that opportunity.

There are some things that I learned there that I hope will be relevant going forward. We face many challenges there. And we certainly had to do many things, not only to reform the spending practices of Louisiana's health care program, but also to increase the quality.

Rather than gave you all the details, I just wanted to note that even though we were charged with rescuing the program from deficits and from being on the verge of defaulting on many of its obligations, what I am most proud of are the improvements in quality. Even though we were able to decrease spending dramatically, we were also able to enhance the quality of health care.

And I think that is evidenced by the support we got not only from providers, but also from recipients, evidenced by the support and the outcomes we saw in terms of increasing immunization rates and increasing the access of Louisiana's indigent population to preventive health care services.

I want to thank Senators Grassley and Breaux. I was able to come and testify at their Committee on Aging as part of our efforts in the Louisiana's Department of Health and Hospitals.

After the work in the Louisiana's Department of Health and Hospitals, I, of course, came up here to Washington to work on the Medicare Commission and working again with Senators Breaux and Mr. Thomas and other members of this committee.

I think that the commission has done some useful work. Both the President and the secretary talked about using the commission's work as a good starting point for continued dialogue. And so I do hope that we will be able to build on the work.

You have heard two of my fellow nominees talk about the need for us to work together with you to address issues like the prescrip-

tion drug issue in Medicare, reforming Medicare, the issues of the uninsured, and other issues.

I do think that the Medicare Commission served a useful purpose in identifying some of the challenges facing the Medicare program and also giving us work upon which we can build going forward.

Most recently, I have been working with the Louisiana's higher education system. You heard Senator Breaux allude to the fact that we worked with the universities in Louisiana.

I am again proud of the work and the accomplishments and the progress we made there in Louisiana. We did move forward in terms of increasing graduation and retention rates and dramatically decreasing remedial education.

We also had some overlap with the health care systems. We had programs to increase the number of health care professionals. And we also had programs through scholarships and other programs to increase the number of under represented individuals, either minority groups or rural populations who are represented in our pre-medical and other health care programs.

Finally in conclusion, let me close by saying that it is indeed an honor and a privilege. I am very humbled to be here before you here today. Just recently, on Mother's Day, I was reminded by my own mother that I was once a preexisting condition. [Laughter.] When she moved to Baton Rouge, her health insurance would not cover my delivery because she was 4 months' pregnant when she arrived.

At the time, the cost for my health care, as my father reminds me, totaled their entire life's savings. It was a simpler time in that the hospital and the doctor were very able and very easily worked out an arrangement where they paid monthly payments.

I just mention that to you because I am very sensitive to the plight not only of the hundreds of thousands of people in Louisiana that do not have access to secure health care, but to the millions of Americans who also do not have access to secure health care.

So I am excited about the opportunity, if confirmed, to work with all the members of this committee and indeed your staffs to address to address those issues.

Thank you, Senator.

[The prepared statement of Mr. Jindal appears in the appendix.]

Senator BAUCUS. Thank you. It sounds like the preexisting condition is a preexisting asset. [Laughter.] Things are going to turn out well here.

Ms. Deily.

#### **STATEMENT OF LINNET F. DEILY TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT**

Ms. DEILY. Thank you, Senator Baucus, and thanks to the other members of the committee. I am honored to be with you today, being nominated by President Bush and Ambassador Zoellick for the position of Deputy Trade Representative.

In some ways, I feel like with this nomination my life is coming full circle. In my undergraduate years, I majored at the University of Texas in a program that the university referred to as government, but the curriculum was almost totally devoted to inter-

national issues. And my minor was in a cross-disciplinary program called international studies.

In addition, my graduate work continued that same interest as I completed an advanced degree in international management.

I had a 25-year segue through financial services before today, but I had the opportunity both in banking and brokerage services to follow the world's markets, via trade finance, or overseas subsidiary operations.

Joining then the U.S. Trade Representative would be a remarkable opportunity I think to combine that deep interest in international issues with the practical business experience I have gained. And I am immensely grateful for that opportunity.

Moreover, being raised on a farm and coming from a family that had farmed for four generations, I think that has given me a good perspective on agricultural issues. And I know those will be a key part of the overall U.S. trade agenda.

While my childhood was a long way from today's world of the instant Internet information flows, we were certainly well aware of the impact of overseas markets even on our small farm. And in fact, I can remember my father at one point selling some Poland China hogs to a Latin American farmer. And I was really impressed with the fact that pigs from our farm were going to some place to an overseas market.

Should I be confirmed, I think my experience in financial services will be useful in my new role. For example, 4 years ago when I switched from commercial banking to brokerage, I faced I think some of the same issues that I will be facing now in the sense of a lot of new material to digest, a lot of colleagues to meet and get to know, 140-plus countries whose representatives in the WTO will be meeting and working with, all at the same time in the middle of the WTO at a critical point as a new round is being discussed.

I look forward to getting to know those WTO members and working with them, trying to find common ground with them for reconciling our disparate positions, but always remembering the strength of the U.S. position.

I plan, if confirmed, to begin to meet those new colleagues and partners in Geneva as quickly as possible, hoping to build relationships with them personally on the basis of trust and candor. I would like to understand their perspectives while at the same time being a very forceful advocate for our own U.S. positions.

To that end, I would look forward to working extensively with Members of Congress. If confirmed, I would plan to return to Washington regularly, both to get your input, as well as to keep you updated in terms of issues that are before us with our WTO colleagues in Geneva.

Thank you.

[The prepared statement of Ms. Deily appears in the appendix.]  
Senator BAUCUS. Thank you very much, Ms. Deily.

I am going to have to recess the hearing at this point. There is a breakdown in the subway. So the Chairman is delayed. He was going to go and vote and return. I will be delayed, as well. My guess is that we will be in recess for about 10 or 15 minutes.

Thank you.



[Whereupon, at 1:57 p.m., the hearing was recessed to reconvene at 2:01 p.m.]

The CHAIRMAN. Mr. Allgeier, please proceed.

**STATEMENT OF PETER ALLGEIER TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT**

Mr. ALLGEIER. Thank you, Mr. Chairman. I am honored to appear before this committee as President Bush's nominee for Deputy U.S. Trade Representative.

And I would also like to take this opportunity to introduce members of my family who are here, my wife, Marsha, our son, Danny. And our other son, Matthew, will be here when he finishes his calculus class.

I am very grateful to the President and to Ambassador Zoellick for recommending me to the committee for this important position. And I thank you and the other members of the committee for taking the time today to review my qualifications and to advise me of the trade policy issues that are of importance to you.

I would like to assure you that if I am confirmed, I will attach the highest priority to addressing those issues and to consulting closely with you and the members of the committee.

Throughout the 20 years that I have been at the Office of the U.S. Trade Representative, I have been enormously proud to represent the United States. Our country has an outstanding record of leadership in shaping the international trading system for the benefit of our citizens, for the system as a whole, and for citizens of other countries.

We can be proud of that record, but we now have a unique opportunity to exercise leadership again—in the international setting of the World Trade Organization, in the regional setting of the Free Trade Area of the Americas, and in our bilateral trade relations from Africa to the Andes to Asia.

To take just one example, at the recent Summit of the Americas in Quebec, the 33 other democratically-elected leaders of our hemisphere looked to the President of the United States to send a strong message of commitment and leadership to free trade and to the contribution that free trade makes to the other values that are of importance to the people of the Americas: democracy, the rule of law, social justice, economic opportunity for our children, and stewardship of the environment.

President Bush provided such leadership in his statements at the Summit and in his meetings with other leaders. If I am confirmed, I will work every day with the other members of the Executive Branch and with the Congress to promote that kind of leadership by the United States.

During my career at USTR, it has been my privilege to work with 7 USTRs and 18 deputy USTRs. Several of them have written me notes or called me to offer their support for my nomination.

I am very grateful to them, but what impressed me the most is they have all expressed strongly their confidence that the United States has the responsibility and the opportunity now to lead the world trading system and the regional trading system.

I would like to let you and the other members of the committee know that I share that optimism about the U.S. role in creating a trading regime that will promote prosperity and American values. I cannot imagine a better time to be working on that goal.

Thank you very much. And I would be happy to answer any questions that you have.

[The prepared statement of Mr. Allgeier appears in the appendix.]

The CHAIRMAN. Thank you very much.

Now, I believe we are going left to right. So Mr. Fisher.

#### **STATEMENT OF PETER R. FISHER TO BE UNDER SECRETARY OF THE TREASURY FOR DOMESTIC FINANCE**

Mr. FISHER. Thank you, Senator Grassley and the committee for the opportunity to be here today. I have submitted a brief written statement for the record. Let me be even briefer. I am honored that President Bush has nominated me to serve as Under Secretary of the Treasury for Domestic Finance, and if confirmed to have the opportunity to work with Secretary O'Neill and this committee and others to advance the President's economic agenda.

Throughout our history, the operations of the Treasury Department have played an important role in the evolution of our financial system. In addition to serving as an advisor to Secretary O'Neill on many financial policy issues, I especially hope to have the opportunity to work with this committee to improve upon the efficiency with which the Federal Government's obligations are financed over the coming years.

I hope the members of the committee will support me. I promise to work diligently and with an open mind on all matters that this committee may wish to raise with the Office of Domestic Finance.

I would also like to take the moment to introduce my wife and my children who are here today, my wife, Mary Sue, my daughter, Charlotte, and my son, Duncan. Their support and their sacrifices already have in so many ways made it possible for me to be here.

I hope that we all learn that love of family and public service are not mutually exclusive, but might even for some of us be mutually reinforcing.

Thank you and the members of the staff for working our nominations along. I would be pleased to answer any questions.

[The prepared statement of Mr. Fisher appears in the appendix.]

The CHAIRMAN. Thank you very much, Mr. Fisher.

Now, Mr. Gurule.

#### **STATEMENT OF JAMES GURULE TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT**

Mr. GURULE. Thank you, Senator Grassley. It is a distinct honor and privilege to be here today to testify in support of my nomination to serve as the next Under Secretary for the Treasury for Enforcement.

I would like to thank President Bush for the opportunity to serve my country and the new administration. I would further like to thank Secretary Paul O'Neill for his support and confidence. I am excited about the possibility of serving under his strong leadership at the Treasury Department.

Before proceeding any further, I would like to take this opportunity to introduce my family. Mr. Chairman, for the past 21 years, I have been blessed with a loving and supportive wife. Please allow me to introduce my wife, partner, and best friend, Julia Gordova Gurule. I have further been blessed with three wonderful children, two of whom were able to accompany me here today. My son, Alejandro.

The CHAIRMAN. Welcome.

Mr. GURULE. My daughter, Sophia. And my unfortunately, my eldest son, Santiago, who just finished his second year of studies at the University of Notre Dame, tells me that he is working and therefore he could not make it. I think it is probably partying after his finals. [Laughter.] But in any respect, he was not able to make it.

Just briefly, and I know we are pressed for time. I look forward to the challenges, opportunities, and responsibilities that await me if confirmed as the Under Secretary.

With respect to my background that I believe makes me uniquely qualified for the position, for approximately 10 years, I worked as a State Federal prosecutor. At Notre Dame law school, I currently teach a number of advanced criminal law classes, including international criminal law. And I have had the opportunity to publish extensively on a wide array of criminal justice issues.

Based on the totality of these experiences, I believe that I understand the critical issues confronting the Federal law enforcement agencies that comprise the Office of Enforcement.

I would be remiss if I did not acknowledge just briefly the Treasury law enforcement bureaus that comprise the Office of Enforcement. These bureaus have a long and distinguished history. Each bureau contributes unique expertise to enforcing our Nation's laws. They have tremendous responsibility. They have carried it out with distinction in years past. And it would be my privilege to provide leadership to those agencies.

If confirmed, I want to commit today that I will provide strong leadership to the Office of Enforcement, maintain the public's trust, and work in partnership with Congress to meet the challenges faced by the Treasury Department and the law enforcement bureaus.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Gurule appears in the appendix.]

The CHAIRMAN. Thank you all very much.

Now, I have three questions. I am going to ask questions separately, but I would like to have all of you listen to the first and the second and the third one. And then, I am going to ask each one of you individually for a response. So this would be to all of you. And then, I will call Mr. Allen first.

Is there anything that you are aware of in your background that it might present a conflict of interest for the duties of the office to which you have been nominated?

Mr. Allen.

Mr. ALLEN. No, Mr. Chairman.

The CHAIRMAN. Mr. Scully.

Mr. SCULLY. No, Mr. Chairman.

The CHAIRMAN. Mr. Jindal.



Mr. JINDAL. No, Mr. Chairman.

The CHAIRMAN. Ms. Deily.

Ms. DEILY. No, Mr. Chairman.

The CHAIRMAN. Mr. Allgeier.

Mr. ALLGEIER. No, Mr. Chairman.

The CHAIRMAN. Mr. Fisher.

Mr. FISHER. No, Mr. Chairman.

The CHAIRMAN. Mr. Gurule.

Mr. GURULE. No, Mr. Chairman.

The CHAIRMAN. Number two, do you know of any reason either personal or otherwise that would in any way prevent you from fully and honorably discharging the responsibilities to the office for which you have been nominated?

Mr. Allen.

Mr. ALLEN. No, Mr. Chairman.

The CHAIRMAN. Mr. Scully.

Mr. SCULLY. No, Mr. Chairman.

The CHAIRMAN. Mr. Jindal.

Mr. JINDAL. No, Mr. Chairman.

The CHAIRMAN. Ms. Deily.

Ms. DEILY. No, Mr. Chairman.

The CHAIRMAN. Mr. Allgeier.

Mr. ALLGEIER. No, Mr. Chairman.

The CHAIRMAN. Mr. Fisher.

Mr. FISHER. No, Mr. Chairman.

The CHAIRMAN. Mr. Gurule.

Mr. GURULE. No, Mr. Chairman.

The CHAIRMAN. Third, do you agree without reservation to respond to any reasonable summons to appear or testify before any duly constituted committee of the Congress if confirmed?

Mr. Allen.

Mr. ALLEN. Yes, Mr. Chairman.

The CHAIRMAN. Mr. Scully.

Mr. SCULLY. Yes, Mr. Chairman.

The CHAIRMAN. Mr. Jindal.

Mr. JINDAL. Yes, Mr. Chairman.

The CHAIRMAN. Ms. Deily.

Ms. DEILY. Yes, Mr. Chairman.

The CHAIRMAN. Mr. Allgeier.

Mr. ALLGEIER. Yes, Mr. Chairman.

The CHAIRMAN. Mr. Fisher.

Mr. FISHER. Yes, Mr. Chairman.

The CHAIRMAN. Mr. Gurule.

Mr. GURULE. Absolutely.

The CHAIRMAN. All right. That does not integrate your other answer. [Laughter.]

Now, I may have more questions of some people than others. It does not mean that they are in any particular trouble with me. [Laughter.] It is just that each one of us in Congress, 100 different people, hopefully collectively represent all the interests and concerns of the American people.

I happen to work in the areas of health and international trade and things of that nature more than I do a lot of other things. So I may have just a little bit of advice to Ms. Deily and Mr. Allgeier.



In your areas, I presume that you know that you are going to spend a lot of time away from home. So I have a friend that was seeking a similar position. When he came to me way last fall, I said to him, you go home and talk to your wife first and see if she understands that you are going to be out of the country more than you are in the country. And his wife reported to me that she understood that. So I decided to help him.

I hope you have discussed those things with your family members.

Mr. ALLGEIER. Yes.

Ms. DEILY. Yes.

The CHAIRMAN. Mr. Scully, you will just think I am just always on your back about something. [Laughter.] I know that you are aware that I have spent a great deal of time over the last several years making sure that government gets what it pays for on behalf of the taxpayers.

Of course, Medicare is a crucial program, serving our Nation's elderly and disabled and ensuring each dollar from the trust fund is spent on quality health care and, of course, not wasted. And that is part of our responsibility. Obviously, you know that it is part of your responsibility.

As we discussed when we met on another occasion, I was concerned that last year, you signed a letter in support of a provider-sponsored bill that purported to provide relief from regulations, but in fact, at least from my judgment, weakened Medicare fraud and abuse laws.

Of course, I agree with what I understand to be the intent to reduce paper work and regulatory burdens on providers so that they can spend more time delivering care. In fact, in my State of Iowa, I hear more about excessive paper work from providers probably more so than anything else. So we are all hopefully going to work in that direction.

I would like to work with you to find ways to improve Medicare so that providers can spend more of their time taking care of beneficiaries. However, it is critical to me that the False Claims Act and other existing fraud and abuse laws are not weakened in this process.

To date, both the General Accounting Office and the Inspector General have identified problematic provisions in the regulatory relief bills introduced this year. In fact, Senator Baucus and I are forwarding a formal request today to these agencies, seeking more information on their concerns, as well as constructive alternatives.

We look forward to receiving their responses, as Senator Baucus and I have worked together with this committee on an alternative proposal that preserves and protects our fraud control efforts while providing meaningful relief from over burdensome regulation and paper work.

So my question is twofold. Do you agree as we provide regulatory relief that we also need to avoid weakening protections for those programs?

And do I have your commitment to work not only with me, but also with the General Accounting Office, Inspectors General, and others to develop solutions to meet these goals?

Mr. SCULLY. Yes, Mr. Chairman, I would say that I am glad that you care so much about these programs. So I would never consider you to be on my back about anything.

The CHAIRMAN. All right.

Mr. SCULLY. So I look forward to working with you. As we have discussed before, I certainly have every intention of very aggressively enforcing the fraud statutes. And I do not have any intention in helping to water them down.

I do, however, think, as we also discussed, that there is a perception out there among hospitals, nursing homes, and doctors that are a lot of them are scared to death.

And I think that we need to somehow need to find a way to aggressively and strongly enforce the fraud laws while at the same time reassuring people that are good providers and doing the right thing and behaving correctly that they should not be fearful that the government is going to be overly aggressive in its enforcement.

I was thinking in the first, the last Bush administration, I was the co-chair of the Medicare Fraud Task Force, the then deputy attorney general. And I think I spent a lot of time on that issue over the years.

And I every intention of being very aggressive in enforcing the fraud laws and working very closely with you and the committee to make sure that any reform efforts I am certain will be done very cooperatively with you.

The CHAIRMAN. Thank you very much, Mr. Scully.

We should put the lights on so that I do not abuse the time that Senator Hatch will have.

Senator HATCH. Just take all the time you want, Mr. Chairman. You just take all the time you want.

The CHAIRMAN. He is so cooperative. [Laughter.]

Thank you, sir. I appreciate that.

We should put the light on anyway. Thank you.

I want to go to Mr. Allgeier. Now, you are going to be Deputy U.S. Representative, and, it is my understanding, concentrating on the western hemisphere. You have a very significant trade negotiation experience with the 33 other countries of the western hemisphere.

And right now, all of these nations are seeking a Free Trade Area of the Americas. You have met many of the key trade officials on these countries on a number of occasions.

Without getting into confidential discussions, and I understand that you cannot, can you tell us generally what the attitude of some of our western hemisphere neighbors is with respect to the President not having trade promotion authority? And also how does the President's lack of trade promotion authority affect our ability to successfully conclude these important talks?

Mr. ALLGEIER. Yes. Thank you very much, Mr. Chairman. The other 33 countries are watching keenly the discussion within the Congress about trade promotion authority. It is an extremely important element in U.S. leadership. It is critical to U.S. leadership, certainly in the eyes of most of our trading partners.

We have been able to move the negotiations to this stage in the absence of trade promotion authority. But frankly, we are at the stage now in terms of decisions that our trading partners will have

to make, they will need the confidence that when we submit an agreement to Congress that there is a high probability that the Congress will approve that.

The CHAIRMAN. Mr. Gurule, as you know, for some years, I have been troubled by the culture of law enforcement that focuses on image, as opposed to product. In light of the recent developments with the Timothy McVeigh case, I believe my concerns have a lot of relevance.

As Under Secretary for Enforcement, you will oversee four of the Nation's eight largest Federal law enforcement agencies. I have identified a problematic management culture within our Federal law enforcement agencies.

And I would like to get your perspective on this and hear your thoughts of public confidence to be restored if you assume that there may be some loss of public confidence. And I do not want to put words in your mouth. But anyway, I think it is essential in light of some other agencies that may be addressed by a person of your responsibility.

Mr. GURULE. No, I agree with your comments. Whenever Federal law enforcement agents engage in an area that creates an appearance and perhaps more of an appearance that a defendant did not receive a fair trial, that justice was done in a particular case, the actions of and it can very well be a single agent, but it certainly reflects poorly on the entire Federal law enforcement agency.

I have that concern. I also at the same time have a great deal of confidence in the integrity and the professionalism of the agents that, again if confirmed, I will have the opportunity to lead.

At the same time, I intend to engage in an effort to review and reform internal procedures to ensure that the mistakes are not made with respect to handling of reports and disclosing reports and complying with our obligations with respect to doing justice for the American people.

So you do have my strong commitment, Mr. Chairman, that I will work closely with the agents, closely with these departments, and ensure that the public has confidence in their ability and professionalism.

The CHAIRMAN. Thank you very much.

Mr. Scully, the President and Secretary Thompson have made it clear that they are both committed to the Health Care Financing Administration reform. And I know that you share that commitment. That is a big part of why you were willing to serve in this job.

So let me take this opportunity to reiterate to you that HCFA reform is a high priority for me, as well. I look forward to working closely with you and your staff to take appropriate steps both legislatively and administratively to improve the efficiency and operation of our Federal health programs.

It was my understanding that a top-down analysis of the agency was taking place to identify areas of the agency that are in need of restructuring. Can you tell me when this analysis will be completed, if my assumption is right? What specific plans do you have to date on HCFA reform? And what do you see as the most urgent priorities?



Let me be more specific. Could you identify, please, key changes in both administrative and legislative areas?

Mr. SCULLY. I will try to be brief. I think it will probably be announced as soon as I get the time to sit down with Secretary Thompson. He spent the week at HCFA, as you know, last week. Most of the Finance Committee staff came up to HCFA all day on Friday.

And I hope within the 10 days or two weeks, we plan to sit down and work out our various ideas for restructuring the agency. And I do not think that we will announce all of them.

I do not think we will come up with a new name yet, but that is one start. I am pretty certain we are going to rename the agency. The secretary has decided on that. I think I totally agree with him.

Second, I do not really plan a massive restructuring. I have discussed this with the secretary, the time and place in which it happened I think in 1995 primarily because my view is that after that restructuring happened, no work got done for 2 years. And it was more disruptive than constructive.

But I do think there are a lot of things that we can fix. There is I think I would say a more than modest restructuring of the agency that I have talked to the secretary about and I plan to carry out pretty rapidly.

I think it will be more restructuring that will enhance the beneficiary education for seniors and Medicare. I would like to have talked to the secretary. I already talked with some people on the committee about substantially increasing the beneficiary education, as well as a major promotional campaign for the Medicare+Choice. And I think the restructuring of the department will reflect that.

I think we are likely to make some changes in the way we relate to States on Medicaid so we communicate much more directly and better with the Governors so we have less confusion about when states apply for waivers.

But I think overall, I do not anticipate a massive overhaul of the type that was done in 1995, but I would say more of a restructuring to focus on things that we want to focus on. And once I get a chance to sit down and talk to the secretary and Claude about how best to do that, we are 90 percent there as far as agreement to do that.

I have found Secretary Thompson, one of the great things about him is he does not like to wait for anything. He likes to do things very fast. So my guess is it is going to happen very fast.

The CHAIRMAN. I guess maybe what I would ask you to do other than appearing today is maybe visit with my staff in some detail on what some of those reorganizations would be and particularly where it relates to things that would save paper work and things of that nature.

Mr. SCULLY. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Baucus.

Senator BAUCUS. Thank you, Mr. Chairman. This is kind of a constrained process here. There is so much to go over. There are so many of you and so little time.

Let me ask you a question, Mr. Allgeier, concerning a letter that 62 Senators sent to the President, expressing their support for

keeping our U.S. trade laws strong and not weakening them in current and future trade negotiations.

I would like your view on the degree to which you believe we should not dilute American trade laws. I would like your thoughts about whether they should even be on the table in future trade negotiations.

I would like your thoughts on NAFTA chapter 19 provisions. I am picking up signals that the administration might include chapter 19 panels as a dispute settlement mechanism.

And I want you to know off the top, I think chapter 19 has been very inadequate because too often panels do not give sufficient deference to administrative agencies and the familiarity with case records and subject matter expertise.

Could address those questions, if you would please?

Mr. ALLGEIER. Yes, I would be happy to, Senator Baucus. First of all, I believe that our trade remedy laws actually are a help to us in liberalizing trade, that American manufacturers, farmers, and workers will feel more confident with trade negotiations if they feel that they have recourse to addressing unfair trading practices by our trading partners.

And so we do not have any intention to weaken U.S. trade remedy laws in our negotiations.

Senator BAUCUS. What about even putting them on the table?

Mr. ALLGEIER. Well, we are not putting them on the table. We cannot prevent a foreign country from speaking about its interests. But we have made it very clear in our negotiations, for example, in the Free Trade Area of the Americas and in Chile that we do not see those as the proper fora for negotiating, new disciplines on antidumping or countervailing duties.

With respect to chapter 19, we have no intention of putting that forward in either of these negotiations. We have never hinted at that.

Senator BAUCUS. All right.

Mr. ALLGEIER. We have no desire to do that.

Senator BAUCUS. I will share my view that basically chapter 19 panels have not worked well because we are fair about it. And we tend to put on judges that look at the law, at least people with judicial backgrounds.

The rest of the countries put on nationalists who seem not to care much about the law and do not look at the record and decide in favor of their country it seems without looking at the record.

Mr. ALLGEIER. Well, we certainly have had our difficulties with chapter 19. And we certainly do not plan to expand its use to other countries.

Senator BAUCUS. Mr. Gurule, I would just like to make it clear that I think it is important that the administration send up its speculations on the rule making process under the so-called Byrd amendment. Can you comment on that, please?

Mr. GURULE. Yes. I have had an opportunity to be briefed on that matter. And it is my understanding that at present, Customs is finalizing a draft notice of proposed rulemaking and that that will be submitted to the Treasury, to the Office of Enforcement shortly.

At that time, it will be reviewed internally by the Treasury office. The regulations will be published for comment. And I hope that

that is a short comment period. And the regulations will then be implemented.

I understand that it is a concern. And I do intend to give that special attention.

Senator BAUCUS. All right. All disbursements and duties collected in fiscal 2001 will be completed before the December 1 deadline.

Mr. GURULE. That is my objective. And that is my goal. And I certainly intend to work to that end and work diligently to that end.

Senator BAUCUS. Do you see that happens before your confirmation? [Laughter.]

Mr. GURULE. Well, I can do my best. I can certainly do my best. I understand it is a concern of yours. It also is a concern of mine. I will work as diligently as I can to move that, those regulations forward.

Senator BAUCUS. Mr. Jindal, basically the point I want to make, and I apologize if it has been made before, it really revolves around the need for a super majority here in the Congress that you have experienced in the Medicare Commission. Now, it is not as super, but it still is super for your tenure.

Any proposal that is passed has to have broad bipartisan support, or we are just wasting our time. And so any so-called previous support recommendations you may have, I just urge you to keep in mind, particularly in the spirit of the tax bill that was brought up in the Finance Committee, the need for bipartisanship.

This is not a time for ideology. I am not saying that you are going to be ideological about this. I am just saying as a practical matter, we want results. We want results that are broad based, that are bipartisan, and that are meaningful.

And I just urge you in any recommendations that you may have just to keep all that in mind so we are not just wasting our time here.

Mr. Allen, I am going to ask you a question if I might about a matter that you and I discussed earlier. And that is people living in Montana. People living in Montana are going through a tragedy. It is asbestos.

The Libby Mine is now closed which has devastated that town. A huge percentage of people as a consequence have tremulite asbestos-related diseases. That is the worse of form asbestosis and melanoma diseases. Many people died. There is no remedy.

They have given it to their wives when they come home from the mines, unwittingly, to their children when they come from the mines unwittingly. The company did not tell them about it even though the company clearly knew, maybe not precisely, but knew significantly of the problem.

These are people in a very small community who have the most heartbreaking stories that I have yet experienced. And they need help. And they have asked for a modest amount of money for medical screening, a clinic, \$560,000 over 3 years. And that is not a lot of money.

And I must ask you to help the people at Libby. You wrote a letter back to me, saying you are working on it or looking into it. We cannot look into it anymore. We just have to help them because



they do not care about words like "looking into" or "working on it" and so forth.

And I know you share my concern, but I wonder if you can tell me what the status is of that request.

Mr. ALLEN. Certainly, yes. Senator, thank you for that comment. As we met and talked about that when I left the meeting, as you know, I do not have authority to do anything at this point as a nominee. And my letter to you expressed a commitment to work with you to address that very problem upon confirmation.

Short of that, what has already taken place is within the department, the Assistant Secretary for Legislation, his office began to look at the issue, the Hersa grant that you are referring to. And I have not been involved in that.

I do know that they have reviewed that, are working on it. I expressed and reiterate my commitment to you that upon confirmation, I will work with you on that to address the issue indeed for two reasons, one, because I have worked with and understand the issues associated with asbestosis and melanoma and some of the other diseases. And so I am very concerned about that.

Senator BAUCUS. I do not want to waste time. But could you make a telephone call after this hearing?

Mr. ALLEN. I would be glad to do so.

Senator BAUCUS. You are not confirmed, but there are people in the agency who can make this decision right now.

Mr. ALLEN. And indeed, they are working on that as we speak.

Senator BAUCUS. Working on it?

Mr. ALLEN. Working on the issue. Again, I have not been directly involved with it, but I have informed that they are working to address the problem.

Senator BAUCUS. It would be to everyone's best interest if that be done.

Mr. ALLEN. Certainly. Senator, the last thing I will say to you is this on that issue is that I am prepared upon confirmation to travel to Libby to visit there.

Senator BAUCUS. I appreciate that very much.

Mr. ALLEN. I will do that. And I will be there with you.

Senator BAUCUS. I am going to do it.

Mr. Chairman, could I ask for your indulgence for just one minute, just this one minute to give everyone a feeling of the rural nature of the State of Montana?

The CHAIRMAN. Yes.

Senator BAUCUS. I do not think many people understand the size of my State. This shows the size of Montana. And actually, there is another matter which I will not press in length.

But a HCFA intermediary just recently denied their ambulance from this Minerville Hospital in Culbertson, Montana to Billings, Montana even though it was declared an emergency in Culbertson. The intermediary says, well, you can drive it. The driving distance is 310 miles. And the driving time, this is not interstate highways, is going to be about 6 or 7 hours. That is one way.

And I mention this because Libby is way up in the corner, just very remote. The population density in the State of Montana is—guess how many people per square mile? I would ask the panelists



to guess? I will tell you. It is 6. Six people per square mile. Guess what the population density of New Jersey is? It is over 1,000.

There are huge, vast distances of no people in Montana.

And so health care delivery is such an acute problem because of the function of distance and remoteness. And these people are out there living. They are isolated. That is another reason they need help.

And I just urge you, Mr. Scully, to look at HCFA reimbursement and the intermediary reimbursement with respect to ambulance. It just does not make sense.

This chart kind of gives you a sense of the size of the State of Montana. Here is Washington and here is Chicago. If you overlay Montana, you can see the direct flight the way the crow flies. It is Washington to Chicago, it is all in Montana. It is a big State, 6 people per square mile.

I just urge you. If you have not been to Montana, I urge you to come and visit us frequently because then you get a sense of what distance really means and how important it is in the health policy. Thank you.

Mr. ALLEN. Senator, as I have stated to you and I expressed the commitment of the department to work with you on that issue, I have been to Montana and visit there regularly.

I serve on a board in Billings, Montana. And so I am very familiar with the six persons per square mile and the other issues that you are addressing there. And you have my personal commitment to work with you on that.

Senator BAUCUS. Thank you, sir. I appreciate that. Thank you. I thank the committee for their indulgence.

The CHAIRMAN. Thank you.

I now turn to Senator Hatch. After Senator Hatch, I will turn to Senator Rockefeller.

And we have been joined by a non-member of the committee, the junior Senator from Louisiana, Ms. Landrieu. And I will recognize you at that time.

Senator HATCH. Thank you, Mr. Chairman. It is with genuine pleasure that I welcome all of you here today. Before I go on, Mr. Chairman, I would just like to add that I respect everybody on this panel. All the nominees are the subject of today's hearings.

And I would like to say as with the nominations with judges, the Department of Justice officials that appear before my committee, I continue to be impressed with the caliber of individuals being selected for these leadership positions in the administration.

And I commend all of you for it. You all have tough jobs ahead. But I am convinced that each of you will serve the government well. You each have my strong support.

In particular, I would like to make mention about Mr. Gurule. That is the way I have always pronounced it.

Mr. GURULE. It is correct. Thank you, Senator.

Senator HATCH. I thought maybe if you had changed it.

Mr. GURULE. No, no.

Senator HATCH. With all this sophistication? [Laughter.]

Mr. GURULE. No.

Senator HATCH. I have known Jimmy Gurule for many years. I can honestly say that his appointment to this position by President

Bush is an inspired decision. He brings a combination of character, intelligence, and professional experience to this job that is without parallel. And I am confident that once confirmed in this position, he will go on to serve the Treasury Department with honor and distinction.

I do not need to go into all the duties of the Under Secretary for Enforcement of Treasury, there are plenty of duties. And the Chairman alluded to that. So this position requires a person with both broad and wide ranging law enforcement experience, as well as the ability to grasp the technicalities of some of the very dense areas in our canneries of law.

You are the right man for that job.

Mr. Gurule graduated from the University of Utah and University of Utah Law School. And he has cut a wide swath in law enforcement circles ever since, both as a public servant and as an academic.

He served as a prosecutor for nearly 10 years, both on the State and Federal level. And as an assistant U.S. attorney in Los Angeles, he successfully prosecuted numerous cases involving international drug trafficking cartels, including the infamous kidnapping and murder of DEA agent Enrique Cameratta, the prosecution for which Jimmy was awarded the Attorney General's Distinguished Service Award and the DEA Administrator's Award, the highest honors conferred by the DEA.

In 1990, Jimmy was nominated and confirmed unanimously by the Assistant Attorney General for the Department of Justice in charge of the Office of Justice Programs.

He served for 2 years there well, supervising several vital entities within the Department of Justice: the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

His tenure as the Assistant Attorney General was so successful that he was presented with the prestigious Edmund J. Randolph award for his outstanding leadership and service to the Department of Justice, as well as the Attorney General's Award for Excellence in Management.

Since 1992, Professor Gurule has been a professor on the faculty of the Notre Dame Law School where he has specialized in criminal law. I could go on and on.

He has recently lectured in Russia, Armenia, Argentina, the Czech Republic, Great Britain. He is the author of numerous books and articles on international and domestic criminal law.

So you bring the exact combination of legal scholarship and real world experience that is required by the demanding position for which you have been nominated. So I strongly support you. I know that you are a person who will serve with honor and good judgment and devotion to our country.

I also want to say that each of you others I know fairly well. And I just do not know how they could have picked better people for these jobs.

I thought Scully was a little brighter than this though. [Laughter.] He is trying to take over HCFA, gee. It is going to be quite

a change for you, it seems to me, from this world of fast jets and all those trappings that come that you are used to.

But let me make congratulations on your nomination. I know you will do an excellent job. And I am looking forward to working with you. As someone who has worked on the Medicare provider side, you will bring a wealth of knowledge to HCFA which as the next administrator is badly needed.

You have a lot of respect on Capital Hill with both members of Congress and with staff up here, as well. I strongly support your nomination and plan to work closely with you.

But as you know, I am quite interested in guaranteeing that senior citizens have access to the most innovative and updated medical technology. In fact, I have sponsored legislation to speed up the Medicare approval process for these items.

And I was interested in your thoughts on this particular issue and what you will do to ensure that Medicare beneficiaries have access to these technologies as fast as possible.

Mr. GURULE. Senator, I think that has been a problem for a couple of years. One of the results of that was a carve out on the outpatient side for hospitals last year for new drugs and devices. And there is a recommendation or actually a requirement for HCFA to do the same for the inpatient side.

I think that that came about largely as a result of the perception and I think probably the reality, as well, from both the drug and device manufacturers that HCFA was very slow in approving new products and new technologies.

I certainly plan to speed that up. I have talked to a number of people who are interested, folks on the Hill, including staff who have been trying to find if it is technically feasible to more regularly update both the inpatient and outpatient hospital coding procedures.

But another thing is just pushing the HCFA staff to do things more quickly and forcing them to be more efficient and more responsive. And that is something certainly very focused on.

I have not, as you know, over the years been a big fan of capitation and moving towards more capitation. So I am little concerned about creating rifle shot carve-outs of programs, but I am very, very committed to speeding up the process.

Senator HATCH. Well, as you know, I think HCFA is a necessary agency, but I think it has fouled up more things than it has helped. And I know that people all over the country are complaining, doctors, health care providers, and hospitals, everybody because the paper work is just killing them.

And I hope that you can break through that and somehow or the other streamline the system, make it work better. I think you probably will be able to because of your vast experience. And I am going to help if I can. So count on that. I think everybody up here will try and help you do that job.

Let me turn to Ms. Deily and Mr. Allgeier. As you may know, many members of the Senate are concerned about the downturn in our domestic steel industry. Senator Rockefeller and I worked together in some of these areas.

Frankly, much of the problem stems from the reality of the situation of global over-supply. However, there is evidence that foreign



steel improperly dumped into the U.S. has contributed to the crisis that we are facing here at home.

In fact, just yesterday, the ITC found by a unanimous 6 to 0 vote that dumped rebar was the cause of serious injury to U.S. producers. Now, I am among those Senators who recently wrote to President Bush to ask that he request relief for steel under section 201 of the Trade Act of 1974.

Ambassador Zoellick responded for the President by a May 7th letter that stated that the administration was "concerned about the health of the steel industry" and was "carefully considering all options."

Now, I am heartened. And while I am heartened by the priority that Ambassador Zoellick and Secretaries Evans and O'Neill appear to be giving to the steel industry, I want to take this opportunity to once again press the case for a 201 action and other means of assistance to this important industry.

Is it pronounced Ms. Deily?

Ms. DEILY. Deily.

Senator HATCH. Could both of you, Ms. Deily and Mr. Allgeier, pledge to take the message back to Ambassador Zoellick and others in the administration that many of us in Congress would like to see some action under 201, as well as other steps to rejuvenate our steel industry?

I think it would be a tragedy if we lose that industry plus especially at this time of the energy crisis, as well.

Mr. ALLGEIER. Absolutely, we will convey that message as clearly and as strongly as you just conveyed it to us. And I would like to assure you that Ambassador Zoellick and his colleagues in the cabinet are looking very, very seriously at the issue of a possible 201 as part of our response to this very urgent problem.

Senator HATCH. Thank you.

The CHAIRMAN. Thank you, Senator Hatch.

Now, Senator Rockefeller.

Senator ROCKEFELLER. I will yield.

The CHAIRMAN. Go ahead, the Senator from Louisiana.

Senator LANDRIEU. I thank my colleague from West Virginia for yielding just momentarily for a very brief statement. But I came here today to particularly congratulate on his appointment, Mr. Bobby Jindal, a personal friend and someone who I have a great deal of respect and admiration for.

And I want to let those in audience and my colleagues know that really for this particular position, I could not think, Mr. Chairman, that we could find anyone more qualified, able, more affable which is a very important quality to have all three of those, but particularly the last one in doing the job that we are asking him to do.

So I wanted just to come by, Bobby, and congratulate you personally and tell you that you have my full and complete support.

Mr. JINDAL. Thank you.

Senator LANDRIEU. And to all the nominees while I have a minute, congratulations and best wishes to you and to the members of your family. And as the Chairman said, while there are not a lot of perks associated with the jobs that we take, there are lots of wonderful rewards for the short and long term, helping the people that we all serve.

And Mr. Scully, particularly to you.

Thank you all so much.

And thank you, Senator Rockefeller.

Mr. JINDAL. Thank you, Senator.

Senator HATCH. Senator Rockefeller.

Senator ROCKEFELLER. Thank you, Mr. Chairman. The first question to Tom Scully. And, Tom, Mr. Scully, I just want to make sure that you get confirmed. So I do not want to say what a high regard I have for you because that might make Senator Hatch a little bit suspicious. [Laughter.] But I do. And you know that.

I know this question has already been asked, but it was not asked by me. And I did not hear the answer. So I can ask it.

I continue to maintain, and perhaps the question that you were asked, that one of our problems in HCFA is that the HCFA administrator does not have the people to enforce accountability. Accountability is a big subject in this administration and perhaps an appropriate one, but surely so in HCFA.

You, as I take it, have five people that you can appoint when you go into that position.

Mr. SCULLY. I think there is approximately 7. It changes day by day.

Senator ROCKEFELLER. You have 4,000 people in the department. How many of them are located in Baltimore?

Mr. SCULLY. I think there is 4,600 people. And there is about 4,000 in Baltimore.

Senator ROCKEFELLER. All right. What percentage of the decision making takes place, that is that does not go to you or to your immediate deputies, in Baltimore that affects States and programs and things out there?

Mr. SCULLY. Senator, I think a lot of it does. And just one of the reasons one of the first things we did a month and a half ago was to convince Ruben Ken Shaw, who I introduced earlier as my deputy, to come to HCFA.

He has been the health secretary in Florida for the last number of years. He is going to be the deputy and chief operating officer. Because HCFA administrators tend to spend 4 days a week in Washington, responding to Congress and the White House and other things, Ruben is going to spend probably 4 days a week in Baltimore.

And you are making the point I made to him when we brought him on which is that I firmly believe, and I think Nancy Ansa, my predecessor who is a good friend shared this as well, that you need somebody who is a very senior, strong political appointee involved if you want to make sure that those decisions are made aggressively and quickly. And that is what Ruben is going to do.

Senator ROCKEFELLER. Well, Mr. Scully, I think you need more than that. I think you certainly do need that. And that certainly is important, but if you have 4,000 people down there making decisions.

And I spend half of my time in West Virginia, talking about the tax cut and the other half talking about what we are going to do about HCFA as I visit hospitals and other places, but I do so with sort of the new sense of hope frankly because I think you are that good.

Is it not true that one of the reasons or the reason that you do not have more people is because we do not give you more people? Are we in a position to give you more people to help your person?

I mean, he cannot do the corridors with 4,000 people. I mean, there has to sort of be not a Scully team, but I really mean that kind of a Scully team that reflects yours and the administration's point of view and that people understand that they are being watched in a constructive sense and that they are accountable in fact to you.

I mean, I have watched Gail Walenski, Bruce Fladdock, Nancy Ansa. I mean, they are all very strong, wonderful people go through, all of them absolutely being certain that they would get the control, to get their hands, so to speak, on HCFA and be able to make it more responsive.

And I think a lot of problems that emanate from there do not need to. It is simply because people are sometimes making bottom line, to say, worse case scenario decisions so that they can say, I will never get caught with that one again. And that is human instinct.

Now, we make lots of mistakes in Congress. One of them was our under funding of VBA for Medicare for Medicaid. But if we deprive you of adequate numbers of people, I want to see I think what is the best reform we can give to you. You are going to lose half of those people anyway in the next 3 or 4 years, are you not, through retirement?

Mr. SCULLY. Yes, especially if there could be more political appointees, Senator.

Senator ROCKEFELLER. Well, I am hoping.

Mr. SCULLY. Actually, I think I have a pretty good team that I am in the process of putting together. And actually, I think fortunately most of the senior people at HCFA I think are pretty good. I think there is some processes that are tied up.

I also think through good fortune that some of the senior career people at HCFA are people that I used to know that worked for me at OMB 10 years ago. A lot of them are very strong, very good. And I found a lot of the same qualities the OMB career staff had which is that they are very loyal, focused people.

I think the biggest problem that HCFA has had is that it is always under siege. And the people there tend to be very defensive. So as a result of that, they are very kind of insular in their decisions and their processes.

And I think one of the things that I am going to try to force the agency to do is to go out and meet with more groups, talk with more people, explain what they are doing to the press, the public, the seniors, hospitals, everybody, Wall Street, everybody that is involved because I think there is a perception that the place operates kind of with a moat around it. And I think that is a big problem.

And I have already I think, as a consultant, aggressively sent that message to them in the last 3 years I have been there. I think they are receptive to that. I think they want to change.

Senator ROCKEFELLER. Well, I do not know, of course, but I am not prepared to agree with that. And so let me put it this way, if we were to give you more people that would be responsive to you, you would resist that?



Mr. SCULLY. I would hate to request it, Senator, but it would be a wonderful thing if it were to happen.

Senator ROCKEFELLER. Then, that is I guess what I wanted to hear. I think you can have your team in place. They were with you at OMB 10 years ago, but it is a long time.

And I think that HCFA to be seen as being responsive and be responsive is incredibly important if for no other reason that it is used by virtually everybody as the reason that everything is going wrong in rural hospitals.

I mean, Senator Baucus talked about the ruralness of Montana. West Virginia and Maine are more rural than Montana is. And this is really important problem. So we will talk privately about this.

And Mr. Allen has listened to every word. I know he wants to be helpful.

Mr. SCULLY. A very sensitive boss. [Laughter.]

Senator ROCKEFELLER. Yes, very sensitive. And we will be helpful in any way that we can to make HCFA as good as it needs to be.

Health care, I mean, all health care is doing is becoming a larger and larger part of our budget. Therefore, the better HCFA has to be. No matter how good it might be or might not be, it has to always be getting better.

Ms. Deily, let me just ask you this. Senator Hatch has talked about section 201. And I have written the same letters and I have received the same responses.

Do you get P.S. on your letters?

Senator HATCH. Sometimes.

Senator ROCKEFELLER. I get P.S. on my letters too which usually tells me that the person has not read the letter themselves, but wants to give you the impression that they have. So they scratch out, "Dear Senator Rockefeller." Then, they write "John" because they do not know me yet. And then, they put a P.S. on it, giving the general impression that they wrote the letter, but I know they did not. Now, that is true under Democratic and Republican administrations.

And Mr. Allgeier too. My point is that there is a certain amount of time that one can wait. And then, one stops waiting. There are five different groups that can initiate a section 201 under the 1974 trade act.

I do not think Senator Hatch would disagree with me when I say that probably 15 percent of the American steel industry will be bankrupt by the end of this year. And I am just interested if you have any sense. I keep getting, we are working on this, a solution, a decision will come along soon.

Do you have any idea when that might be?

Ms. DEILY. I do not have a sense, sir, of the exact timing of it, but I have heard exactly in the comments that I have heard within the agency the same sense of urgency that my colleague, Mr. Allgeier, was describing to you. I think it would be shortly. People appreciate the gravity of the situation and the seriousness from a time perspective.

Senator ROCKEFELLER. I had those conversations with President Clinton for 5 years. And there was always a sense of urgency that was expressed. It is just nothing ever happened. So the sense of ur-



gency is not very persuasive to me. It is the time that I request it.

And you said you do not have that, right? So I guess I will have to live with that.

Ms. DEILY. But I will take both of your comments back, and as Mr. Allgeier and I both will, to be able to discuss with our colleagues and see what response we can give to you.

Senator ROCKEFELLER. You do understand that the steel industry is disappearing, do you not, both of you?

Ms. DEILY. Yes.

Mr. ALLGEIER. Yes.

Senator ROCKEFELLER. And you still understand that we import two-thirds of our oil, but we would stop the world from spinning before we would stop for more oil in this country.

We have a very different view towards steel. Steel, we leave up to the free market system on a global even though you can say that it is important for national security and for manufacturing and for the economy is as great or greater than oil. And I have always been baffled by this.

Do you have any sort of explanation as to why we are so loyal to oil and so sublimely unworried about steel?

Ms. DEILY. It is my understanding from the comments that I have heard that it is a subject that has been discussed numerous times thus far in this administration at both a cabinet and a sub-cabinet level. So I do not think its importance is misunderstood. I think it is of high concern to this administration.

Senator ROCKEFELLER. Thank you, Mr. Chairman.

Senator HATCH. Thank you, Senator.

Actually, I will just reinforce that. We all know why steel is not given quite the consideration. That is because every fabricator, every automobile company, every constructor, and everybody else wants cheap steel.

But what happens if we get into another major conflict and we do not have any steel industry to back up our ability to defend ourselves, and especially when we have laws that basically are pretty darned clear?

But I agree with Senator Rockefeller that there never seems to be given any consideration to these important issues and the injustices that are occurring to our steel industry.

And so I hope that you folks will really jump on this because this is a bipartisan with us and as many things are. And frankly, we both feel very deeply about it. So we will be watching very carefully. I hope you jump right on it.

Ms. DEILY. Thank you.

Mr. ALLGEIER. Thank you.

Senator HATCH. I know, Mr. Allgeier and Mr. Fisher, you feel very badly that you have not had many questions. [Laughter.]

And, Mr. Jindal, we know that you have had and, Mr. Allen.

We like to pick on Scully. We all know him. [Laughter.]

But this is a very good group of people. And we really appreciate having you all here. It is the committee's intent to report out all of you hopefully next week.

And we want to thank you all for appearing before the Finance Committee.

Do you have any other questions, Jay?

Senator ROCKEFELLER. No.

Senator HATCH. Then, with that, we are happy to have had you all here. We will try to get you out and hopefully in your jobs in helping to protect our country in so many ways that you can. Thanks so much.

We will recess until further notice.

[Whereupon, at 2:58 p.m., the hearing was concluded.]

## APPENDIX

### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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#### PREPARED STATEMENT OF CLAUDE A. ALLEN

Good morning. It's an honor for me to come before you, today. As you may know, I served on the Senate Foreign Relations Committee staff from 1985 to 1987, and I have a tremendous respect for this process and the example it is of democracy in action. Not only is it an honor for me to be here, it's a very humbling experience, and I want to thank each of you for giving me the opportunity.

I have enjoyed meeting with you and your staffs over the past month, and I appreciate your ideas, suggestions, and commitment to meeting the health and human service needs of all Americans. We have been given a tremendous responsibility and public trust. I look forward to working with each of you to meet the needs of the individuals you represent and the country to which we serve.

The policies a government sets, particularly in the social services and health arena, must spring from your beliefs about people. The core values of an individual demonstrate the compassionate side of politics and differentiate themselves from pure rhetoric.

As Virginia Governor Jim Gilmore's Secretary of Health and Human Resources, we have been successful with many initiatives in Virginia by simply empowering individuals to make their own decisions and by giving them the tools to do so. I want to share with you several of these programs, the first of which is welfare reform.

#### **Welfare Reform**

Welfare reform in Virginia emphasizes self-sufficiency, personal responsibility, and community action, but at the heart of all welfare reform, is family. Today, Virginia does not allow individuals simply to receive assistance indefinitely at the expense of others. No longer do we discourage parents from going to work by immediately halting the benefits they so desperately need. The days are over of having programs that reward parents for living apart so as not to jeopardize public assistance.

Knowing it's not just the responsibility of the government to give people a helping hand, we have formed partnerships in communities across the Commonwealth to provide benefits, services, and most significantly, support. This concept is not something new to the African American and other ethnic communities. Many of us have been bound together by a strong sense of family and faith and leaning on one another in hard times. We must revitalize this type of caring across all communities, today.

The results of welfare reform in just a few short years have been amazing. Since 1995, Temporary Assistance for Needy Families, or TANF, cases in Virginia have declined by 59%. Over forty thousand families in Virginia have come off the welfare rolls to start new lives. This can all be attributed to the strength of individuals and families in Virginia, but also to what happens when government discourages dependency and entitlement and promotes independence and self-sufficiency.

However, welfare reform is not complete. The individuals who still receive public assistance make up a diverse population known as "the hardest to serve." These are people who require additional training and support to help them find their skills, talents, and God-given abilities to put them on the road to accomplishment. We must continue expanding opportunities to these vulnerable citizens and give them a boost toward fulfilling the American dream.

#### **S-CHIP**

Many families may choose to stay on public assistance to maintain healthcare benefits for their children. Other families may begin working in jobs that do not pro-



vide health insurance. Doubtless providing for children is the duty and responsibility of parents. There are circumstances, however, where it is not only appropriate, but also efficacious for government to assist families for the sake of children.

The State Children's Health Insurance Program, or S-CHIP, was created in 1997 through legislation sponsored by Senator Kennedy and Senator Hatch. I commend you, Senator Hatch, for your devotion to this issue and to your forethought in establishing this program.

In 1998, Governor Gilmore launched Virginia's version, the Children's Medical Security Insurance Program (CMSIP), to provide children in low income working families with health insurance.

Since that time, we have enrolled over thirty thousand children in the program with an additional ten thousand children who have been enrolled in the Medicaid program due to outreach efforts. Forty thousand children, who did not have health insurance two and a half years ago, now have access to comprehensive medical services and not just emergency room or indigent cares services. This improvement in access to quality of medical care in Virginia is an investment that will last for generations.

Just over a year ago, Governor Gilmore asked me to assess how CMSIP was doing and look at the lessons we had learned since the beginning of the program. Capitalizing on market-oriented solutions and the strength of the private sector, we designed the Family Access to Medical Insurance Security (FAMIS) program.

FAMIS allows working parents the opportunity to buy family health insurance coverage through their employers. If a parent has the option of purchasing private health insurance at work and meets the income requirement, he or she can receive assistance to pay the monthly premium on family coverage.

The program was approved with overwhelming bipartisan support in the 2000 Virginia General Assembly, and the program should be up and running by this Fall.

### **Serving Persons with Mental Illness**

In Virginia, we have gone to great lengths to bring dignity and respect to persons with mental illness. Over the past three years, we have: strengthened community services; funded anti-psychotic medications with almost \$20 million; established an Inspector General's office to ensure that the highest quality of care is being provided in our state hospitals; reduced admissions to state hospitals by 40%; reduced the census at state hospitals by 20%; and, launched a mental health trust fund eventually to fund enhanced community services.

All totaled, Governor Gilmore has recommended and approved nearly 100 million new dollars to mental health.

There are two goals behind these initiatives in mental health. The first is to ensure that the highest quality of care is given at state facilities. The second reason is to build community infrastructure, so that individuals who do not need to be institutionalized can live with or near their family and friends and have the chance to lead normal, productive lives. The reductions in admissions and in the censuses at state hospitals show how effective providing new medications to persons suffering from mental illness can be.

What we have experienced in Virginia is that the time has come to change the old way of providing mental health services. By funding new community services instead of maintaining near empty facilities, persons with mental illness and their families would be much better served.

### **Long Term Care**

As the "graying of America" continues, long term care is one area that we must address. In Virginia, we have begun to design a public-private long-term care system for older Virginians to cost-effectively provide ongoing support services to Virginians and their families.

Virginia has an Adult Day Care Incentive Grant program to encourage local communities to apply for up to \$100,000 in seed money to foster public-private partnerships that develop or expand adult day care services. Adult day care services offer families an option for caring for their frail older relatives during the busy work day.

We have also created a Center for Elder Rights in the Virginia Department for the Aging. The Center for Elder Rights serves as the single point of contact for older Virginians and their families about services and programs in the areas of legal assistance, consumer protection, and long-term care. The Center has developed a partnership with Virginia's Better Business Bureaus to educate older citizens and their families about scams and frauds.

The Long-Term Care Ombudsman Program offers older Virginians and their families assistance with resolving concerns about care received from a nursing home or other long-term care facility, a community agency providing long-term care services,

or a hospital. The local ombudsman serving in each Area Agency on Aging in Virginia uses mediation and other problem-solving techniques to solve problems and improve the services that families receive.

### **Virginia Patients Bill of Rights**

We worked in Virginia to establish a sensible Patients Bill of Rights that worked for consumers and providers. We have required appeals for adverse coverage decisions. Patients have direct access to a physician specialist when authorized by their health plan and continuity of care provisions are provided when providers terminate coverage without cause. There is coverage for clinical trials for treatment studies on cancer, minimal stay requirements for hysterectomies, and allowances for patients to deviate from a health plan's prescription drug formulary. Also, health plans are required to have staff available at all times to authorize medical services.

In addition to these rights, the quality of healthcare services provided by managed care health insurance plans to enrollees is monitored by the State Health Commissioner. This initiative was a collaborative effort by an Advisory Committee composed of Managed Care Health Insurance Plans, purchasers, advocates, physicians, and other providers.

I realize all of these issues we have addressed in Virginia are important to the members of this Committee, and I am committed to continue working in these areas.

### **Deputy Secretary's Departmental Role**

Many of you have asked what role I will play within the Department. Should I be fortunate enough to be confirmed, I believe that in many respects my role will be to mirror Secretary Thompson and step up to the plate on occasions or on issues on which he is unable to direct his attention. Within the Department of Health and Human Services, I will work with Secretary Thompson to handle special projects. Given the Secretary's interest in management reform, I expect to be involved in efforts to reform the Department's management structure. I also expect to be involved in efforts to examine and possibly change the management structure at the Health Care Financing Administration.

I am also interested in looking at innovative ways to expand access to, and quality of, health care coverage to children. I believe that the federal government should give the states greater flexibility to develop efficient cost-effective health care and only step in when the states are not measuring up. However, I also believe, like Secretary Thompson and the members of this Committee, that HHS should not be a rubber stamp for states and should carefully review state Medicaid waivers.

There is one specific element of President Bush's budget that I would like to single out for praise. That is the proposed \$261 million dollar increase in funds to improve the health care of minorities while working to reduce health disparities. Evidence in recent years suggests that race and ethnicity correlate with the continued and increasing health disparities in members of minority communities. One example of this is the fact that diabetes is twice as prevalent among Native Americans than in the general population. This is an issue of which I am especially aware having worked with the Virginia Council on Indians during my tenure in Virginia, and I am committed to working with Congress to ensure the success of efforts to reduce health disparities.

The president's budget makes a serious effort to improve minority health and work to eliminate health disparities. Of the \$261 million increase, \$203 million will be spent by the National Institutes of Health to expand its support of research into the causes of health disparities and potential treatments. Additionally, part of these funds will be used to provide additional support to the newly established National Center for Minority Health and Health Disparities. The Office of Minority Health will receive a \$3 million increase to provide grants to non-profit and public entities researching health disparities, and to support community and local efforts to combat chronic diseases affecting minority men. The Department also will provide additional funds to the Agency for Healthcare Research and Quality to create a National Disparities Report. Additionally, the Indian Health Service will receive a net increase of \$107 million to better provide health care to our nation's Native American populations.

There are many other important issues before the Department of Health and Human Services that affect Americans in their day-to-day lives. These include strengthening Medicare by including a prescription drug benefit, passing a federal patients' bill of rights, and improving access to quality health care. These are not partisan issues, and they are not issues that are easy to solve. These are issues that are fundamental to the American people and our health and well-being. It is my

hope that we all will be able to sit down and work on moving this great nation forward.

One night a few weeks ago I was looking through an old scrapbook and came across a news clip about my Grandpa and Grandma Wray. At 111 years old, Grandpa Wray recounted a century of memories including his life in post civil war North Carolina. He worked a variety of jobs to provide for his family including the railroad, cotton oil mills, sawmills, and even sharecropping. He attributed his long life to hard work, a strong marriage, and unshakable faith.

I wish he could be here, today. You see my Grandpa was the first in his family who was not born a slave. I'm sure he is peaking over heaven's gate, smiling ear to ear, as his grandson sits before you now, a Presidential nominee. This could only happen in America.

Again, it's an honor for me to be before you, today. I would be happy to answer any questions that you have for me at this time.



SENATE FINANCE COMMITTEE  
STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)  
Claude Alexander Allen
2. Position to which nominated:  
Deputy Secretary, Health and Human Services
3. Date of nomination:  
April 26, 2001
4. Address: (List current residence, office, and mailing addresses.)  
Home:  
13310 Autumn Chase Court  
Richmond, Virginia 23233  
Office:  
Secretary of Health and Human Resources  
Office of the Governor  
222 N. 9<sup>th</sup> Street, Suite 622  
Richmond, Virginia 23219
5. Date and place of birth:  
October 11, 1960; Philadelphia, Pennsylvania
6. Marital status: (Include maiden name of wife or husband's name.)  
Married to Jannese Mitchell Allen, formerly Jannese Viola Mitchell
7. Names and ages of children:  
Claude Alexander Allen, III            8 years  
Lila Cjoan Allen                        4 years  
Christian Isaiah Allen                11 months

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

University of North Carolina at Chapel Hill  
Chapel Hill, NC  
August 1978 – May 1982  
B.A. – Political Science and Linguistics

Duke University School of Law  
Durham, NC  
May 1987 – May 1990  
Juris Doctorate  
Masters of Law in International and Comparative Law

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

**Employment Record**

May 1982 – November 1982 Press Secretary	Bill Cobey for Congress Committee Chapel Hill, NC
January 1983 – November 1984 Press Secretary	Jesse Helms for Senate Committee Raleigh, NC
November 1984 – January 1985 Press Director	Jefferson Marketing Raleigh, NC
January 1985 – January 1987 Press Secretary/ Professional Staff	US Senate Foreign Relations Committee Washington, DC
January 1987- May 1987 Deputy Director, Minority Staff	US Senate Foreign Relations Committee Washington, DC
June 1988 – July 1989 Law Clerk	Maupin Taylor Ellis & Adams Raleigh, NC
May 1989 – June 1989 Law Clerk	Baker & Botts, L.L.P. Dallas, TX
June 1989 – July 1989 Law Clerk	Baker & Botts, L.L.P. Washington, DC

August 1989 – May 1990  
Law Clerk

Petree Stockton, L.L.P.  
Raleigh, NC

August 1989 – May 1990  
Legal Researcher

Duke University School of Law  
Durham, NC

August 1990 – August 1991  
Judicial Clerk

The Honorable David B. Sentelle  
U.S. Court of Appeals for the District of  
Columbia Circuit  
Washington, DC

September 1991 – March 1995  
Attorney

Baker & Botts, L.L.P.  
Washington, DC

March 1995 – June 1997  
Counsel to the Attorney General

Office of the Attorney General  
Richmond, VA

June 1997 – January 1998  
Deputy Attorney General

Office of the Attorney General  
Richmond, VA

January 1998 – present  
Secretary of Health and  
Human Resources

Office of the Governor  
Richmond, VA

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

African Development Foundation  
Board of Directors

January 2001 - present

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

Peacemaker Ministries, Inc.  
1537 Avenue D, Suite 352  
Billings, MT 59102  
(406) 256-1583  
Member, Board of Directors  
October 1999 - present



CaraMore, Inc.  
 550 Smith Level Road  
 Carrboro, NC 27510  
 (919) 967-3402  
 Member, Board of Directors  
 October 1988 - present

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

I am an attorney with licenses to practice in the following jurisdictions:

Pennsylvania	voluntary inactive status	good standing
Washington, DC	active	good standing
Virginia	active	good standing

Virginia Bar Association 1995 – present

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Republican Party of Virginia	1992-present
Henrico County Republican Party	1995-present
North Carolina Republican Party	1983-1992

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

None

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

None

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

Letter to the Editor, *Richmond Times Dispatch*, October 5, 1998 (attached)  
 Editorial, *Richmond Times Dispatch*, April 2, 2000 (attached)  
 Letter to the Editor, *Roanoke Times*, February 12, 2001 (attached)

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)

Speeches Attached

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I have served as Secretary of Health and Human Resources for the Commonwealth of Virginia since January 1998. In this post, I have had the opportunity to apply Virginia Governor Jim Gilmore's vision, wisdom, and commitment to provide all citizens of the Commonwealth with the means to pursue healthy and productive lives.

I have managed the policy, personnel, and resources of 13 health and human resources agencies and more than 16,000 employees. My highest priorities are to provide quality health care for all Virginians and to continue to implement Virginia's successful welfare reform initiative.

As Secretary, I led Governor Gilmore's initiative for Virginia's Patients Bill of Rights, which was passed by the Virginia General Assembly in 1999. Patients now have the right to appeal adverse coverage decisions made by their health plans and receive direct access physician specialists. Additionally, due to Governor Gilmore's efforts to ensure quality in the health insurance industry, all managed care plans in Virginia must now have a quality assurance certificate.

For the past three years, I have lead Virginia's initiatives to reform the state's mental health institutions and community services, including the establishment of a new office of Inspector General to improve the quality of care. I also am responsible for implementing Virginia's new private health insurance program for children and families, offering lower-cost coverage options to thousands of uninsured Virginians. I also have worked in implementing initiatives in long-term care and in the emerging field of human genetics.

From 1995 until my appointment as Secretary in December 1997, I served in the Office of the Attorney General, first as Counsel to the Attorney General and, later, as Deputy Attorney General for the Civil Litigation Division. As Counsel, I reported directly to then-Attorney General Gilmore on legal, legislative, and policy matters

including health, education, and welfare issues. As Deputy Attorney General, I managed a staff of 75 attorneys and support staff representing the Commonwealth in the areas of antitrust enforcement, consumer protection, utility and insurance regulation, real estate and construction litigation, debt collection, tort defense, and employment litigation.

I have gained practical experience from an active role in community service. In North Carolina, I served in the Durham Guardian Ad Litem Program, representing abused, neglected, and dependent children in the legal process. I also serve on the Board of Directors for CARAMORE, a nationally recognized mental health facility in Chapel Hill. I also have worked with the Legal Council for the Elderly and the Street Law Program for the District of Columbia.

My work in the health and human services area provide me with the skills, knowledge, and abilities to undertake the duties of the Deputy Secretary of Health and Human Services.

#### **B. FUTURE EMPLOYMENT RELATIONSHIPS**

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.  
  
Yes
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.  
  
No
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.  
  
No
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.  
  
Yes



### C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

As Secretary of Health and Human Resources for the Commonwealth of Virginia I have engaged in various activities for the purpose of influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law and public policy. These activities include appearing and testifying before committees of the Virginia House of Delegates and the Senate of Virginia. I have also appeared before committees of the United States House of Representatives to testify on welfare reform and abstinence education. Copies of my testimony before the United States House of Representatives is attached.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)

None

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

Copies will be provided by the Office of Government Ethics.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

#### **D. LEGAL AND OTHER MATTERS**

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None

#### **E. TESTIFYING BEFORE CONGRESS**

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes

## RESPONSES TO QUESTIONS FROM SENATOR GRASSLEY

*Question:* I understand serious concerns exist within veterinary pharmaceutical companies in my state and around the country that the process of registering veterinary drugs at the Center for Veterinary Medicine is broken. It's my understanding that drugs should be approved in six months or 180 days. However, the current registration process is taking well over a year. Do you have any comments on how you would work to improve the approval times for animal drugs? Will you look into the issue and get back to me?

*Answer:* The Food and Drug Administration's (FDA) Center for Veterinary Medicine (CVM) determines whether or not an animal drug should be approved for marketing. CVM's drug approval process includes reviews for quality, effectiveness, safety to the animal, safety to the user of the product (veterinarian or animal producer), safety to the environment, and safety to consumers of animal derived food products.

CVM acknowledges that there are delays in the review of new animal drug applications (NADA) and is taking steps to address the backlog to the extent possible with available resources. CVM continually strives to improve our timeframes for review of submissions by making process changes to increase the efficiency of the new animal drug review and approval process. You may be interested to know that in October 2000, CVM updated our 5-year strategic plan, including aspects related to the drug approval application process. As part of this plan, CVM has created an internal administrative working group to review the application process to make it more cost-efficient and time-efficient.

Among the steps CVM has taken and will take to reduce application review times and the review backlog are:

- The substantial investment of staff resources in writing guidances and regulations to help industry understand the approval process and requirements will result in greater efficiencies over the long run in the review and approval of new animal drug applications.
- CVM is developing a guidance for industry to establish a new method of addressing deficient submissions to allow CVM to focus its resources on reviewing quality submissions.
- CVM announced the availability of phased review of applications and will continue to pursue this option with sponsors to increase efficiency.

Additionally, CVM will be able to utilize the resources provided in FY 2000 and FY 2001 to begin to reduce the backlog and approve applications in a more timely manner. Once resources are received it could take up to 1 year to locate and recruit the type of scientific expertise needed to fill available positions. Then, once a hiring has occurred, it takes approximately two years until the employee is working at full potential because of the learning curve and complexity of the review process.

The following table reflects the backlog rates for the NADA and abbreviated new animal drug applications (ANADA) related submissions that the Office of New Animal Drug Evaluation (ONADE) completed processing in fiscal year 2000. FDA provided similar data relating to animal drugs to industry earlier this year, but the table below reflects updated information.

The applicable statutory timeframe is 180 days for the review of new animal drug applications (NADAs) and supplemental NADAs. In addition to NADAs, ANADAs and supplements to these applications, CVM's ONADE acts on other types of submissions—Abbreviated NADAs, Investigational New Animal Drug exemption requests (INADs), generic INADs, and master files. In total, ONADE completed processing in FY 2000 for 5,497 submissions.



**Food and Drug Administration - Animal Drugs and Feeds Program**  
FY 2000 Actuals <sup>1/</sup> for Animal Drug Approval

	Received	Completed	Approved	Pending <sup>3/</sup>
New Animal Drug Applications Processed Originals <sup>2/</sup>	28	30	23	23
New Animal Drug Application Supplements <sup>4/</sup>	1,286	854	279	662
Original Abbreviated New Animal Drug Applications	55	42	7	35
Abbreviated New Animal Drug Application Supplements	195	126	35	109

Average Review Times For Animal Drug Approvals

<i>Average (median) months from receipt to approval, original NADAs and reactivations</i>	14
<i>Average (median) months from receipt to approval, original ANADAs</i>	20

<sup>1/</sup> The Center has experienced an increase in the receipt of applications from FY 1999 to FY 2001. Companion animal drug applications received have increased by three-fold.

<sup>2/</sup> Includes originals and reactivations. If application is not approvable, the sponsor may submit additional information until the Agency is able to approve the application.

<sup>3/</sup> All applications received during a fiscal year are not reviewed during the same fiscal year. Pending applications indicates the number of applications in our backlog.

<sup>4/</sup> A supplemental application is a sponsor request to change the conditions of the existing approval. They can be significant (a new species or indication), or routine (product manufacturing changes).

**RESPONSES TO QUESTIONS FROM SENATOR HATCH**

*Question 1:* Deputy Secretary Designee Allen, as you know, the current primary federal financing mechanisms for child welfare are Title IV-E of the Social Security Act which pays for removal of children and placement in out of home care settings such as foster care and Title IV-B of the Social Security Act which pays for in-home and community prevention efforts and services.

Policy makers in my state of Utah have told me that they believe additional flexibility in how they utilize these federal funds would better support children and families.

Do you support increased flexibility regarding a state's ability to co-mingle these funds?

*Question 2:* As a result of the recent reform efforts, states are working to provide services in a more streamlined manner to families.

I am informed by policy makers in Utah that they face many regulatory barriers when attempting to implement "one-stop services" for their clients. They tell me that they have had to deal with conflicting eligibility parameters, performance measures and restrictive regulations from several different federal agencies.

How would you address and ameliorate the disconnect between the various federal agencies?

*Answers:* Senator Hatch, first I would like to note that this Administration is very committed to working with the States, as well as with community- and faith-based organizations, to help families in crisis, to protect children from abuse and neglect, and to ensure that children in foster care have the opportunity to grow up in permanent, loving homes. The President's budget includes a request to increase funding by \$200 million for the Promoting Safe and Stable Families program under title IV-B of the Social Security. This proposal will strengthen efforts to support and preserve families; facilitate the timely reunification of children in foster care with their families, when this is appropriate and safe; and promote adoption and adoption support services when reunification is not appropriate.

We also recognize that many States are seeking ways to use more flexibly the funding they receive under title IV-E of the Social Security act, which, as you note, pays for foster care maintenance payments and other expenses related to the placement of children. As you know, the Congress has authorized the Department of Health and Human Services to waive certain provisions of titles IV-E and IV-B to enable States to conduct demonstrations of innovative child welfare service delivery and financing approaches in a cost-neutral environment. These waiver demonstrations provide an important mechanism for States to use funds more flexibly to better meet the needs of children and families in the child welfare system. The Secretary is interested in exploring ways to make the waiver demonstration process more flexible and responsive to State needs and we will be looking at this area as one way to provide States with greater flexibility to meet the needs of children and families.

#### RESPONSES TO QUESTIONS FROM SENATOR BAUCUS

##### **Question 1: MEDICAID AND CHIP**

When we created CHIP, we tried to get away from potential stigma issues by allowing states to create their own, non-Medicaid programs. My home state of Montana has done this, and the program has been very successful so far. I understand that Virginia also chose to create a non-Medicaid program, but has had less success in enrolling children. Only 40% of the children who are eligible for CHIP in Virginia are enrolled in the program.

A number of newspapers in Virginia have implicated the Gilmore administration and even you personally for state's lower-than-expected CHIP enrollment. In those articles, you have cited the stigma of a welfare program and a difficult application process as reasons why children have not enrolled. Do you consider 40% to be an acceptable rate of enrollment in CHIP? Do you think that states have an obligation to find and enroll children who are eligible for public programs? Let me also ask—as Deputy Secretary of HHS, you will support state efforts to increase enrollment in Medicaid and CHIP?

*Answer:* The Gilmore Administration has an exceptional record of service in improving access to quality health care for children in the Commonwealth. Virginia's experience in reaching uninsured low-income children in S-CHIP is similar to that of other states. When Congress created S-CHIP, it specifically targeted assistance. To be eligible, a child must:

- not be eligible for Medicaid
- not have insurance
- live in a family with income less than 200 percent of the federal poverty level.

Before the S-CHIP program was created, the overwhelming majority of low-income children in Virginia were insured through the private sector or Medicaid. Depending on the source, it has been estimated that between 90 and 93 percent of low income children are currently insured in Virginia.

Virginia's record specific to S-CHIP is one of success. As of May 14, 2001, there were 32,623 children enrolled in our S-CHIP program. But that is only part of the picture. More than 52,000 children (82% of projected enrollment) have been enrolled at some time in the program. Some of these children became eligible for Medicaid. Approximately 10,000 children have been added to Medicaid.

Virginia has employed a wide variety of outreach strategies including mailing letters to the last known address of former welfare recipients. Community outreach partners include schools, faith-based organizations, social services agencies, and businesses. Our experience shows that multiple contacts are often required before a family may complete the application process.

Clearly Virginia and the other states have engaged in unprecedented efforts to advertise the availability of their S-CHIP programs. I think we are indeed meeting our obligations in this area. As Deputy Secretary I will continue to support state efforts to enroll eligible children in Medicaid and S-CHIP programs.

##### **Question 2: UNINSURED**

In spite of the strong economy and attempts by the federal and state governments to expand health insurance coverage, the number of uninsured Americans continues to increase. I am strongly committed to finding ways to expand coverage and bring the number of uninsured down. Do you share this commitment? What approaches would you recommend to address this pressing problem, particularly for our lowest-income uninsured?

*Answer:* In Virginia, we have incorporated a managed care philosophy to counter the welfare stigma of the Medicaid program. Managed care is part of a coordinated plan to provide: quality health care; enhance the promotion of personal responsibility.

bility; increase the efficient utilization of resources; and promote the ongoing development of partnerships. Since 1996, Virginia's Medicaid program has expanded the use of managed care organizations (MCOs) that utilizes commercial carriers. This has allowed Medicaid recipients to have increased access to commercial networks, allowed recipients to use MCO cards rather than Medicaid cards; and allowed recipients to receive health care services in a commercial network. This means that Medicaid MCOs apply the same rules and requirements set forth in the commercial market to the Medicaid population. Currently 156,000 Medicaid recipients access their care through a Medicaid MCO. In October, this number will increase by approximately 100,000 and then nearly half of Virginia's Medicaid population will access their care through an MCO.

Through the expansion of managed care, Virginia has increased both quality and access to care for Medicaid recipients. MCOs provide a large commercial base of primary and specialty care physicians. Recent studies report that recipient satisfaction levels with both access to care and the quality of care within Medicaid MCOs are comparable or higher than satisfaction levels with Medicaid non-MCO service providers and plans. Not only do the Medicaid MCOs increase access to care but they also do so at a reduced cost for the taxpayers of Virginia.

### **Question 3: MEDICAID WAIVERS**

I am supportive of Secretary Thompson's efforts to streamline the waiver approval process for states that want to expand coverage for their Medicaid and CHIP populations. I would like to make sure, however, that this process does not compromise benefits for certain low-income and disabled populations. Do you agree that we need to protect these populations by ensuring that they receive the benefits for which they're eligible? How important is it to you to keep Medicaid and CHIP affordable for low-income populations?

I am interested in setting in place a process to allow us to track waiver applications by states and to get a better understanding of your approval process. Will you work with members of this committee to ensure that this happens?

*Answer:* Senator Baucus, a number of states have been able create ambitious and innovative programs due to the Medicaid waiver process. Like you, I believe waivers should ensure continuation of coverage to the population currently covered under Medicaid or SCHIP while at the same time providing innovative solutions that address the unique needs of the uninsured population in each state. Additionally, waivers can, and should, facilitate coverage for entire families supplanting private coverage already offered by the private sector. You can rest assured that I will constantly consult with Congress to ensure that waivers are not granted inappropriately.

### **RESPONSES TO QUESTIONS FROM SENATOR BINGAMAN**

*Question 1:* Secretary Thompson used the Medicaid and State Children's Health Insurance Program (SCHIP) as mechanisms from which to build in order to expand coverage to the people of Wisconsin.

In sharp contrast, as Secretary of Health and Human Resources in Virginia, you were quoted in the paper as saying such approaches were akin to "government paternalism" (*Washington Post*, "U.S. Blocks Va. Health Plan for Needy," September 19, 1998) and opposing a Medicaid expansion as "expanding welfare" (*Richmond Times Dispatch*, Question is How to Aid 'Tweeners: Children's Health-Care Face-Off Coming," April 18, 1998).

In fact, you were also quoted as saying that you and Governor Gilmore would oppose expanding Medicaid because it is "another well-intended but ill-conceived government entitlement program" (*Daily Press*, "VA Official Backs Gilmore's Plan," April 10, 1998).

What are your feelings about Medicaid today? Do they conform more to what Governor Thompson has done or to your past statements as being opposed to Medicaid expansions?

*Answer:* Senator, I do not believe that there is any contradiction between my past statements and what Governor Thompson has done. Governor Thompson expanded coverage for the uninsured in Wisconsin. However he did this, not through a straight expansion of the Medicaid program, but by requesting a waiver of Medicaid requirements that enabled Wisconsin to create an innovative program to cover adults as well as children. In Virginia, rather than expand Medicaid in order to provide SCHIP coverage, we decided to operate a separate plan in order to remain flexible in its ability to offer innovative solutions to caring for uninsured children in Virginia.



A significant example of this is Virginia's new FAMIS plan which grants premium assistance to children in families with employer sponsored insurance. This type of expanded coverage encourages the use of private health insurance and provides private sector solutions to the uninsured. Secondly, a significant deterrent to enrolling uninsured children into SCHIP plans has been SCHIP's association with welfare. Offering a separate SCHIP plan, Virginia has "tapped" into the private health care market and eliminated its association with welfare.

Overall, like other states such as North Carolina and Pennsylvania that have established a separate SCHIP program, Virginia has been able to promote market-oriented solutions where appropriate to encourage competition as a means to keep insurance affordable and to foster innovation. Such innovation supports, not supplants, private sector delivery in order to improve access to health care.

Title XXI is a step in the right direction of allowing states additional flexibility to cover children through employer-sponsored health insurance. Any expansions of coverage should be modeled on Title XXI and should be designed to support, not supplant coverage provided by the private sector. The nation as a whole and Virginia in particular have learned some exciting lessons over the past few years as we have implemented welfare reform.

Virginia has been careful to ensure that the Medicaid program does not send a confusing message to families about work and personal responsibility. As we help families move forward into the workforce, that is where they should also get their health insurance benefits as do the majority of America's working families. We should not force families back into the welfare system in order for them to obtain health insurance coverage.

*Question 2:* Medicaid is a critically important program to millions of Americans. Unfortunately, it is often state government rules that treat Medicaid as a welfare program. If you had problems with Medicaid being like a "welfare program" during your tenure in Virginia, what steps did you take to eliminate that treatment, such as eliminating the requirement that people apply for health care for their children through the welfare office?

*Answer:* The way that eligibility has been simplified and the welfare stigma has been removed is with the Title XXI SCHIP program. Under Title XXI states have been granted considerable flexibility in designing state run programs. It is only when HCFA grants states some flexibility that a state can work to simplify and stop treating programs as welfare and more like private health insurance.

In Virginia, we amended our Title XXI to address this issue. We are changing the name of the program from CMSIP to the Family Access to Medical Insurance Security Plan (FAMIS), to show that health insurance is a family issue, and to acknowledge that families, as well as children, can gain access to health insurance in the new program. The proposed changes to CMSIP will diminish the stigma of a public welfare program, simplify and speed-up the enrollment process, as well as increase access to a broader array of providers through private sector health insurance programs. These actions will, in turn, improve public perception and acceptance of the program, therefore, increasing enrollment of eligible children and families.

*Question 3:* In your testimony today, you said, "... I also believe, like Secretary Thompson and the members of this Committee, that HHS should not be a rubber stamp for states and should carefully review state Medicaid waivers."

In New Mexico, we are very sensitive to this issue. The entire New Mexico delegation had problems with the most recent New Mexico waiver for behavioral health and encouraged the previous Administration to deny the waiver. The waiver was denied, and yet, it was overturned by this Administration despite a letter from the entire New Mexico congressional delegation expressing grave concern about the waiver. As Senator Domenici, Representatives Wilson, Udall, and Skeen, and I wrote, "When the decision was made last October to deny the state's waiver for behavioral health services, it was because the lack of access to services through the Salud program was causing devastating problems, not only for consumers and the behavioral health care system, but also for the juvenile justice system, and thus, ultimately, for all of the citizens of our state. The purpose of denying the waiver was to ensure the availability of a system that better serves the needs of the people of New Mexico."

Now that the Administration has overturned the decision and granted the waiver, how does the Administration plan to hold the State accountable "to ensure the availability of a system that better serves the needs of the people of New Mexico."

Also, how is the Administration ensuring that children with special health care needs are receiving the protections called for by the Congress and highlighted in a series of General Accounting Office reports last year?

*Answer:* I agree that HCFA should not be a rubber stamp for states and HCFA needs to carefully review and consider state Medicaid waivers. I will work to ensure

that waivers are reviewed for both quality and access. States will need to provide HCFA assurances of quality and access to services. This is already built into the waiver approval process but this needs to be strengthened in light of the New Mexico concerns. In already approved waivers, HCFA can carefully review the state's implementation of the waiver and ensure access and quality assurances are being met.

The Administration understands the importance of providing care to children with health care needs in the managed care environment. The Administration is currently reviewing the final rule published on January 19, 2001 that amends the Medicaid regulations to implement provisions of the Balanced Budget Act of 1997 (BBA). The final rule was developed with a clear emphasis on consumer protections. The administration intends to meet the spirit of the Congress's charge by ensuring that the health care needs of individuals with special health care needs and chronic conditions who are enrolled with Medicaid managed care organization are adequately met.

HCFA is addressing many of the recommendations proposed in the final study and is instituting protections and safeguards as part of the State's Plan and waiver process. HCFA, in conjunction with HRSA (Health Resources and Services Administration) have implemented technical assistance and training activities for the states to implement the new requirements for identifying, monitoring, and providing for the coordination of care. Moreover, HCFA will be conducting studies to ensure that quality health services are being rendered.

It should be noted that Virginia has implemented several of the provisions for children of special needs in their managed care programs with the approval and applause of HCFA officials. We believe we can protect the children in a managed care environment with the proper administration and guidelines.

*Question 4:* Many members of the Finance Committee support Administration efforts to ensure that HCFA is more responsive to state efforts to be innovative with the programs under your jurisdiction. Congress included the authority for waivers in the Social Security Act because we wanted to create an avenue for states to experiment with programs authorized under the Social Security Act and to receive federal funding for the costs associated with doing so.

However, we want to make sure waivers are used to further the purpose of Medicaid, SCHIP, and the other programs to which they apply. We expect that waivers will not be approved if they undermine basic protections for low-income families that we have included in statute, including the guarantee of Medicaid for people who are eligible for coverage under federal minimum standards.

How will you make sure that waivers are not used to override congressional intent? Can you provide us with more information on how you would draw a line between appropriate and inappropriate waivers? Given that waivers essentially allow states to disregard the federal law as we have written it, how will you consult with us to make sure that they are being approved appropriately?

Specifically, we would expect regular updates when states apply for waivers, what waivers propose to do, the status of the waiver in its approval process, and when the waivers are approved or disapproved. Is that something the Administration would commit to doing?

*Answer:* Wisconsin was able to create an ambitious and innovative program to provide health care coverage for the working poor precisely because Wisconsin applied and obtained a waiver for its Title XIX program. The coverage Wisconsin provides to entire families. This would not have been possible without the Title XIX Waiver.

Appropriate waivers are those which allow a state to achieve efficiencies or improvement in access, quality, or continuity of care. Waivers should ensure continuation of coverage to the population currently covered under Medicaid or SCHIP while at the same time providing innovative solutions that address the unique needs of the uninsured population in each state.

Waivers can, and should, facilitate coverage for entire families by promoting personal responsibility, and without supplanting private coverage already offered by the private sector. You can rest assured that I will constantly consult with Congress to ensure that waivers are not granted inappropriately.

*Question 5:* What role did you play in the approval of Virginia's Medicaid waiver request earlier this year that included changes to the State's request for more funding under the Medicare "upper payment limit"? This includes work done in your capacity in Virginia government and that at HHS.

*Answer:* My Deputy Secretary for Operations is monitoring the approval process of the waiver and has been the point person since the beginning of the process. In my capacity as Secretary, I approved the State Plan amendment that was submitted to HCFA. I have not been involved with the project since my nomination. I was kept



informed by my staff of all decisions made throughout the approval process. In my capacity as Secretary of Health and Human Resources for the Commonwealth of Virginia, I participated in discussions with the Governor's Office regarding the Medicare upper payment limits. I approved the State Plan Amendment that was submitted to the Health Care Financing Administration for our inter-governmental transfer process. As you may know, ethics rules prevent me from exercising any decision-making authority on Virginia-specific programs for a period of one year. I have abided by these rules and will continue to do so.

#### RESPONSES TO QUESTIONS FROM SENATOR GRAHAM

##### *Medicaid and CHIP for Legal Immigrants*

**Question 1:** One of the most appalling omissions to last year's "Medicare, Medicaid and CHIP restoration bill" was the exclusion of a provision which would have given states the option to provide Medicaid and CHIP coverage to **LEGAL** immigrant children and pregnant women.

Current census data shows that in the last year, nearly half of the low-income immigrant children in America had no health insurance coverage.

Congressional Republicans and Democrats, Governors, including Jeb Bush, and state legislators, have been working together for some time to make this common sense proposal law.

Eighteen states, including your state of Virginia, provide services through Medicaid, CHIP or both to certain post-1996 legal immigrant populations with state only dollars.

I would argue that if we are truly entering a new era focused on "uniting not dividing" then adopting policies that provide states with the option to cover the health care needs of children of working families, whether they are legal immigrants or citizens should be at the top of the list.

I find it disturbing that the goal of uniting all Americans appears to exclude legal immigrant families who work hard, pay their taxes, and contribute to the fabric of our nation.

As Deputy Secretary of HHS, will join me, and the scores of Republican and Democrat Governors, Senators, Congressmen and legislators in ensuring that states have the option of providing these fundamental services to the children and pregnant women of post-1996 legal immigrant families?

**Answer:** Senator Graham, I agree with you that immigration is the backbone of America. That said, states always have the option of providing coverage to any population they choose. Virginia exercised all of the options available to it for providing federally funded Medicaid benefits to immigrant populations and used state only dollars to cover those immigrants for whom Medicaid coverage was not an option. Other states are welcome and encouraged to take the same approach. As a member of the Executive Branch, I will work with the States to carry out the intent of the laws regarding public assistance and with the Congress to identify any barriers to providing coverage for this population.

##### *Medicaid: Outreach and Enrollment*

**Question 2:** Following the passage of the 1996 welfare reform enrollment in "regular" Medicaid has been fluctuating.

The U.S. General Accounting Office reported that about 1.7 million adults and children lost Medicaid between 1995 and 1997. In a 1999 study of CHIP and Medicaid, Families USA found that children's enrollment in Medicaid dropped by almost one million (8.9 percent) between 1996 and 1999 in the 12 states with the largest number of uninsured children.

Since the criteria for Medicaid eligibility has changed little and incomes of former welfare recipients have barely risen, most of them remain eligible.

What do you propose to do as Deputy Secretary of HHS to make sure that every Medicaid-eligible child and parent actually receives the benefits to which he or she is entitled?

**Answer:** It is very important that Medicaid-eligible children and parents receive the benefits to which they are entitled. Virginia has sent out letters to over 41,000 former Temporary Assistance for Needy Families (TANF) Medicaid recipients. These letters were sent to inform the families that even though they were no longer on welfare, they or their children might still be eligible for Medicaid.

I am well aware of the importance of outreach in states' Medicaid and SCHIP programs. In Virginia, we have been very committed to performing outreach in our SCHIP program. I feel strongly that a comprehensive outreach initiative is an important component of any Title XXI plan. As a result, a section was added to the Family Access to Medical Insurance Security (FAMIS) legislation regarding out-



reach prior to its passage. Accordingly, in Virginia's revised SCHIP plan, outreach strategies are to be included that specifically pertain to (i) improving outreach and enrollment in those localities where enrollment is less than the statewide average and (ii) enrolling uninsured children of former Temporary Assistance to Needy Families (TANF) recipients.

It is crucial to support efforts to support low-income families, especially those trying to make the difficult transition from welfare to self-sufficiency. As part of these efforts, it is critical that we offer support to working families and educate families about the availability of Medicaid and SCHIP coverage for their children.

*Medicaid: Protecting the integrity of the program*

**Question 3:** As governor, Secretary Thompson put Wisconsin at the forefront of efforts to ensure health care coverage for the working poor. Wisconsin's BadgerCare program, guarantees health care coverage for all families with incomes up to 185% of the poverty level—about \$25,300 for a family of three.

This is arguably one of the most ambitious programs in the nation. Among other things, by providing coverage for entire families, the incentive for parents to obtain insurance for their children has increased significantly.

Unfortunately, there are few states that have proved to be as innovative and progressive as Wisconsin. To that end it is important that federal-state programs, such as Medicaid and CHIP, continue to assure poor children, seniors and with disabilities with health care coverage as outlined in Title XIX and XXI of the Social Security Act.

Can you provide us with information on how you would draw a line between appropriate and inappropriate Medicaid and CHIP waivers. Given that waivers essentially allow states to disregard the federal law as we have written it, how will you consult with us to make sure that they are being used appropriately?

**Answer:** One manner in which Virginia is attempting to be as innovative as Wisconsin is through public/private partnerships. One example of such innovation is Virginia's new Title XXI program, FAMIS. Rather than utilize a strict government program with few exceptions, Virginia promotes market-oriented solutions where appropriate to encourage competition as a means to keep insurance affordable and to foster innovation. Such innovation supports, not supplants, private sector delivery in order to improve access to health care.

A specific example of this is the premium assistance component of FAMIS. FAMIS, Virginia's Title XXI plan, offers premium assistance to children in families with employer sponsored insurance. This type of innovation expands coverage to children without the use of waivers.

Overall, offering flexibility within both Medicaid and SCHIP programs reduces the need for waivers. Flexibility comes from initiating partnerships with the private sector. As a result, more comprehensive coverage is offered to a greater population without the necessity of waivers.

RESPONSES TO QUESTIONS FROM SENATOR TORRICELLI

**Question:** New Jersey's Pharmaceutical Assistance for the Aged and Disabled (PAAD) was established 25 years ago and currently serves 190,000 seniors and disabled New Jerseyans. Enrollment in PAAD represents more than 20 percent of the nation's seniors who are enrolled in a state drug assistance program.

These beneficiaries can go to their local pharmacy and fill a prescription for only \$5 with no cap on the amount of drugs they can receive. Without question the PAAD program is one of the most generous and successful in the nation.

With good reason, the beneficiaries who rely upon PAAD are wary about the debate taking place in Congress. They are concerned that the program they know and rely upon will be replaced by less generous coverage. For example, New Jersey's PAAD program provides a 100 percent subsidy for single seniors with income below \$19,200. Just this week, a new program was approved called the Senior Gold Prescription Discount Act, which will subsidize prescriptions for senior with annual household incomes of more than \$30,000.

Yet most proposals that have been advanced on the federal level would provide a subsidy for subsidy for seniors with income below only \$11,600. It is very difficult for New Jersey's low-income seniors and disabled to understand why they should support these less generous proposals.

If the low-income assistance program envisioned by President Bush's Helping Hand proposal or other proposals before Congress were passed, how would it impact states with existing program like the one in New Jersey?

*Answer:* The Immediate Helping Hand program will give states the temporary financial support they need to provide drug coverage to Medicare beneficiaries with limited incomes or very high drug expenses.

States that have previously enacted their own drug benefit programs would not be penalized. Currently, state drugs-only benefit programs are now being funded with 100% of state dollars.

Under the Immediate Helping Hand program, states with existing drug programs will have new federal dollars to either help defray some of the state costs they are currently incurring through their own drug benefit programs or to expand coverage to additional Medicare beneficiaries.

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#### PREPARED STATEMENT OF HON. GEORGE ALLEN

It is my privilege to present an outstanding Virginian, Claude Allen, for your consideration as Deputy Secretary for the Department of Health and Human Services. I am very pleased to offer this most capable and qualified candidate. Although not a relative of mine, in Claude Allen, President Bush and Secretary Thompson have made an outstanding choice.

I was very fortunate to have Claude Allen's help during my term as Governor where he served as Counsel to the Attorney General and, later, as Deputy Attorney General for the Civil Litigation Division. He has served Virginia faithfully as Secretary of Health and Human Resources since 1998 working to ensure the passage of a responsible Patients' Bill of Rights and quality in the health insurance and the managed care industries.

As Virginia's Secretary of HHR he leads 13 agencies with 15,000 employees offering important resources to all Virginians that enhance their health and independence. Claude Allen has been an essential part of maintaining Virginia's commitment to our welfare Reform Initiative, expanding self-sufficiency for the disabled, protecting our youth from alcohol and illegal drugs, and enforcing parental responsibility. We have seen remarkable results from Virginia's welfare reform initiative with a 60% decrease in the state's welfare roles between 1995 and 2000, resulting in a cumulative savings of over \$465 million to the taxpayers.

While we may be losing a remarkable leader in Virginia, Virginia's loss is the nation's gain. I am confident that Claude Allen's leadership in the Department of Health and Human Services will be extremely valuable as we pursue Welfare Reform and Reauthorization and work to improve the responsiveness and efficiency of the Health Care Financing Administration (HCFA) in the coming months.

It is my sincere pleasure to present this exceptional nominee to you and wholeheartedly recommend his swift confirmation.

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#### PREPARED STATEMENT OF PETER F. ALLGEIER

Mr. Chairman, Senator Baucus, and Members of the Committee, I am honored to appear before you today as President Bush's nominee for Deputy United States Trade Representative. I am very grateful to the President and to Ambassador Zoellick for recommending me to the Committee for this important position. Frankly, it never occurred to me that I would be nominated for one of the Deputy positions at USTR. But I pledge to you that, if confirmed, I will carry out the responsibilities of this position conscientiously and energetically. I thank the Committee for taking the time today to review my qualifications for this office and to advise me of the trade policy issues that are of importance to you. I assure you that I will attach the highest priority to addressing those issues and to consulting closely with you on them.

Throughout the twenty years that I have served at the Office of the United States Trade Representative, I have been enormously proud to represent the United States. Our country has an outstanding record of leadership in shaping the international trading system—for the benefit of our citizens, but also for the benefit of the system as a whole and for citizens in other countries. We can be proud of that record. We now have a unique opportunity to exercise such leadership again—in the multilateral system of the World Trade Organization (WTO), in regional settings such as the Free Trade Area of the Americas (FTAA), and in our bilateral relations, ranging from Africa to the Andes to Asia. To take just one example, at the recent Summit of the Americas in Quebec, it was clear that the 33 other democratically elected Leaders of our hemisphere looked to the President of the United States to send a strong message of leadership and commitment to free trade and to its contribution to the other values that the people of our hemisphere seek—democracy, rule of law,

social justice, economic opportunity for their children, and stewardship of our environment. President Bush provided such leadership in his statements at the Summit and in his meetings with the other Leaders. If I am confirmed, I will work every day—with my colleagues in the Executive Branch and with the Congress—to promote that kind of leadership from the United States.

During my career at USTR, it has been my privilege to work with seven USTRs and seventeen Deputy USTRs. As you can imagine, I have learned many lessons from working with such a diverse group of officials. I would like to mention a few of the lessons that I will seek to apply, if I am confirmed as Deputy USTR. The first lesson is to remember always that the various executive departments and agencies and the Congress and their staffs all are on the same team—the U.S. team. Our overriding goal must be to do what is in the best interest of American manufacturers, farmers, service providers, consumers, workers, families, and other elements of civil society. I look forward to working with Congress to reach consensus on how best to express and promote American interests. The second lesson is to understand the objectives of our negotiating partners, which are not always obvious from their public statements. In order to reach sound, enduring agreements, we must find the right balance of interests among the negotiating parties. Knowing clearly our own interests is the first step, but dealing creatively with the other side's interests is the second element in a successful trade policy or negotiation. Of course, there will be times when we cannot find a sufficient intersection of interests to conclude an agreement. And that's the third lesson that I have learned: don't be afraid to walk away from a proposed deal that does not meet U.S. interests.

Mr. Chairman and Senator Baucus, I want to share with you that several former Deputy USTRs and USTRs have called me and offered their support if I should be confirmed in this position. I am grateful to them, and I intend to draw upon their experience and wisdom, although I recognize that we face different challenges and different circumstances today than they faced. But what impressed me most about their calls and notes was that they all expressed strongly their confidence that the United States has the responsibility, and the opportunity now, to lead the global and hemispheric trading systems. I'd like to let the Members of the Committee know that I have that same optimism about the U.S. role in creating a trading regime that will promote prosperity and American values. I cannot imagine a better time to be working on this goal.

Thank you. I would be happy to answer any questions that you may have.



**SENATE FINANCE COMMITTEE  
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

**A. BIOGRAPHICAL INFORMATION**

1. Name: (Include any former names used.)

**Peter Frederick Allgeier**

2. Position to which nominated:

**Deputy U.S. Trade Representative**

3. Date of nomination:

4. Address: (List current residence, office, and mailing addresses.)

**Residence: 3337 Rose Lane, Falls Church, VA., 22042**

**Work: Office of the USTR, 600 17<sup>th</sup> Street, NW; Washington, D.C., 20508**

5. Date and place of birth:

**April 17, 1947; Orange, New Jersey**

6. Marital status: (Include maiden name of wife or husband's name.)

**Married to Marsha Naomi Uehara**

7. Names and ages of children:

**Matthew, 18; Daniel, 13**

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

**Brown University (1965-69), A.B.**

**Harvard Divinity School (1969-70)**

**Johns Hopkins University-SAIS (1970-72), M.A.**

**University of North Carolina at Chapel Hill (1972-77), Ph.D.**

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)
  - 2001: Special Assistant to the President for International Economic Affairs, National Security Council, Washington, D.C.
  - 1995-2001: Associate U.S. Trade Representative for the Western Hemisphere, Office of the U.S. Trade representative, Washington, D.C.
  - 1989-1995: Assistant U.S. Trade Representative for Europe and the Mediterranean, Office of the U.S. Trade Representative, Washington, D.C.
  - 1985-1989: Assistant U.S. Trade Representative for Asia and the Pacific, Office of the U.S. Trade Representative, Washington, D.C.
  - 1981-1985: Deputy Assistant U.S. Trade Representative for Asia, Africa and North-South Affairs, Office of the U.S. Trade Representative, Washington, D.C.
  - 1981: Director for Japanese Affairs, Office of the U.S. Trade Representative, Washington, D.C.
  - 1980-1981: International Economist, Office of the U.S. Trade Representative, Washington, D.C.
  - 1977-1980: International Economist, Program and Policy Coordination Bureau, U.S. Agency for International Development, Washington, D.C.
  - 1976-1977: Visiting Instructor, Dept. of Economics, Duke University, Durham, N.C.
  - 1972-1976: Teaching Assistant, Dept. of Economics, University of North Carolina, Chapel Hill, N.C.
  - 1971-72: Research Assistant, Programming and Budget Dept., World Bank, Washington, D.C.
10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)
 

N/A
11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm,

partnership, other business enterprise, or educational or other institution.)

None

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

None

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

**\$50 contribution to Fred Ward, candidate for Fairfax County School Board.**

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

**1988: Presidential Rank Award, granted by President Reagan**

**1976: Carolina Population Center Fellow, University of North Carolina**

**1969-70: Rockefeller Fellow at Harvard Divinity School**

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

**"U.S. Global Leadership and Our Ability to Address Trade Liberalization". Florida Journal of International Law, Vol. XIII, No 1, Fall 2000.**

**"Korean Trade Policy in the Next decade: Dealing with Reciprocity", World Development, Vol. 16, No. 1, 1988.**



16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)

**American Bar Association International Trade Committee, 11/13/2000**

**Brasil-U.S. Business Council, 10/26/99**

**Fifth Symposium of the Americas, 9/23/99**

**American Chamber of Commerce of Trinidad & Tobago, 3/3/99**

**Andean Development Corporation Conference, 9/11/98**

**Association of American Chambers of Commerce in Latin America, 5/14/98**

**Southern Governors Association, 2/24/98**

**Institute of the Americas Hemispheric Policy Forum, 2/17/98**

**ABA Section of International Law and Practice, 11/13/97**

**Brasil-U.S. Business Council, 9/8/97**

**Conference on U.S.-Andean Trade & Investment Relations, 9/3/97**

**Customs/Trade/Finance Symposium, 3/4/97**

**Private Sector Organization of Jamaica, 2/14/97**

**Business Network for Hemispheric Integration, 1/30/97**

**Chicago-Kent College of Law, 11/15/96**

**International Trade Club of Kansas City, 5/13/96**

17. Qualification: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

**As a U.S. trade negotiator for more than twenty years, I have negotiated, and supervised negotiators, in a wide variety of negotiations. These have covered the regions of Asia, Europe, the Western Hemisphere, and multilateral negotiations in the GATT and in the UN. The subject matter has included, among others: intellectual property protection in Korea, Taiwan, and Hungary; bilateral**

investment treaties with Russia and Central and Eastern Europe; the Free Trade Area of the Americas; TRIMs obligations with Brazil; government procurement in the Uruguay Round; commercial space launch with Russia; wine market access with the European Community; several Section 301 settlements; rice and other agricultural products market access in Taiwan; and semiconductor tariff reduction with Japan.

I believe that this experience has provided me with an appreciation of the importance of opening markets for U.S. goods and services, as well as an understanding of the relationship between Congress and the Executive Branch in U.S. trade policy. I also understand the role of trade in broader U.S. foreign policy. Finally, the years of experience negotiating has taught me the art of building consensus, both within the U.S. government (and with U.S. stakeholders) and across the table with foreign governments.

## 2. FUTURE EMPLOYMENT RELATIONSHIPS

10. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Since my present employer is USTR, by definition I would not sever that relationship if I were confirmed as Deputy USTR.

11. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

None

12. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

None

13. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes

## C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

None

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)

N/A

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

None

#### **D. LEGAL AND OTHER MATTERS**

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

None



2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

None

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

None

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

None

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

#### E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes

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#### PREPARED STATEMENT OF LINNET F. DEILY

Thank you, Mr. Chairman, Senator Baucus and Members of the Committee, am honored to have been nominated by President Bush and Ambassador Zoellick for the position of the Deputy Trade Representative. In some ways I feel like my life is coming full circle. In my undergraduate years I majored in what the University of Texas called Government with my curriculum almost totally devoted to international issues, and I minored in a cross-disciplinary program called International Studies. In addition, my graduate work continued that same interest as I completed an advanced degree in International Management.

While I had a 25 year segue through financial services, I also had the opportunity both in banking and brokerage to follow the world's markets via trade finance or subsidiary operations overseas. Joining the Office of the US Trade Representative would be a remarkable opportunity to combine the deep interest in international issues with the practical business experience I have gained—and I am immensely grateful for that opportunity.

Moreover, being raised on a farm and coming from a family that has farmed for four generations has given me a good perspective on agricultural issues, a key part of the overall US trade agenda. While my childhood was a long way from the Internet era of instant information flow, even then we were well aware of the impact of overseas markets and, in fact, I can remember my father selling Poland China hogs to a farmer in Latin America.

Should I be confirmed, I believe that my experience gained in financial services will be useful to me in my new role. Switching four years ago, for example, from commercial banking to brokerage presented some of the same challenges that I would expect in the new position: there will be significant new material to digest,

new colleagues to get to know, 140+ members of the WTO to meet, all in the middle of a critical time in the WTO with a new Round being discussed.

I look forward to working with other WTO members to try and find common ground or reconcile our disparate positions, while always representing the strength of the US position. I plan quickly to begin meeting the WTO members in Geneva, hoping to build relationships based on trust and candor. I would seek to understand other perspectives while being a forceful advocate for our US positions.

To that end, I look forward also to working extensively with our Congress. If confirmed, I intend to return to Washington regularly and seek your input as well as keep the Members up to date on recent developments and the status of discussions in Geneva.

Thank you.

## **SENATE FINANCE COMMITTEE STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

### **A. BIOGRAPHICAL INFORMATION**

**1. Name: (Include any former names used.)**

Linnet Frazier Deily  
Mary Linnet Frazier (birth)  
Linnet Frazier Trow (prior marriage)

**2. Position to which nominated:**

Deputy Trade Representative and Ambassador Extraordinary and Plenipotentiary

**3. Date of nomination:**

March 20, 2001

**4. Address: (List current residence, office, and mailing addresses.)**

2288 Broadway, #5  
San Francisco, California 94115 (residence and mailing address)

Charles Schwab Corporation  
101 Montgomery  
San Francisco, California 94104 (office)

**5. Date and place of birth:**

June 20, 1945 at Dallas, Texas

**6. Marital status: (Include maiden name of wife or husband's name.)**

Married to Myron Bonham Deily

**7. Names and ages of children:**

Four Step-children: Christopher Paul Deily (7/25/57); Steven Alexander Deily (2/10/59); Sylvia Elizabeth Deily (1/7/63); and Jessica Lynn Tiongson (3/22/67)

**8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)**

University of Texas at Dallas (1974-76, M.A. 1976)  
 University of Texas at Austin (1965-67, B.A. 1967)  
 Baylor University (1963-65)  
 University of North Texas (Summer School, 1964, 1965)  
 Stephen F. Austin State College (Summer School, 1963)

**9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)**

Vice Chairman, Charles Schwab Corporation, San Francisco, California, 1996 - Present  
 Chairman, President, and CEO, First Interstate Bank of Texas, Houston, Texas, 1988-96  
 Executive Vice President, First Interstate Bank of California,  
 Los Angeles, California, 1986-88  
 Senior Vice President & Chief Financial Officer, First Interstate Bank, Ltd.,  
 Los Angeles California, 1985-86  
 Senior Vice President, First Interstate Bank of California, Los Angeles, California, 1983-85  
 Vice President, First Interstate Bancorp, Los Angeles, California, 1981-83  
 Senior Vice President, Republic National Bank of Dallas, Dallas, Texas, 1974-81  
 Caseworker, Christian Children's Home, Council Bluffs, Iowa, 1970  
 Correspondence Clerk, Dow Jones & Company, Chicopee, Massachusetts, 1969  
 Child Welfare Worker I, Department of Public Welfare, Beaumont, Texas, 1968-69

**10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above.)**

Member, Federal Advisory Council (January 2001 - Present)  
 Regent, University of Texas (1994-96)  
 Governor's Business Council, Texas (1995-96)

**11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)**

Charles Schwab Corporation, Vice Chairman, Office of the President  
 Reliant Energy, Inc., Board Member  
 Advisory Board Member: Anderson School, UCLA



**12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)**

Board Member: Catalyst  
 Women's Museum  
 Advisory Board, Anderson School, UCLA

Honorary Trustee: Museum of Fine Arts, Houston

Vestry: St. Mary the Virgin Episcopal Church

**13. Political affiliations and activities:**

**a. List all public offices for which you have been a candidate.**

None

**b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.**

Team 100, RNC, 2000.

**c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.**

<u>Date</u>	<u>Entry</u>	<u>Amount</u>
01-27-91	Friends of Kay Bailey Hutchison	500
06-21-92	Friends of Kay Bailey Hutchison	500
01-12-93	Kay Bailey Hutchison for Senate	1,000
08-30-93	Kay Bailey Hutchison for Senate	100
10-06-95	Kay Bailey Hutchison for Senate	500
10-06-95	Governor Bush	500
01-27-96	Phil Gramm for President	1,000
04-08-96	Dole for President	1,000
05-27-96	Governor Bush	500
05-27-96	Kay Bailey Hutchison for Senate	500
05-27-96	University of Texas PAC	2,000
09-17-96	Governor Bush	2,500
09-17-96	Lt. Governor Bullock	2,500
4-7-98	Kay Bailey Hutchison for Senate	500
05-18-98	Leadership PAC	500
08-25-98	Kay Bailey Hutchison for Senate	500
02-10-99	Gramm for Senate	1,000
02-10-99	Abraham for Senate	1,000
03-07-99	G.W. Bush Pres. Exp. Comm.	2,000
03-15-99	Reliant Energy PAC for Bush	1,000
05-13-99	Kay Bailey Hutchison for Senate	2,000
05-05-00	Bush for President	2,000
05-18-00	Bush-Cheney Compliance Comm.	1,000
06-18-00	RNSEC - Team 100	100,000
11-12-00	Bush-Cheney Recount	5,000
12-10-00	Bush-Cheney Transition	5,000

14. **Honors and Awards:** (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Alpha Lambda Delta, Freshman Honor Society  
 Academic Partial Tuition Scholarship, Baylor University  
 Accounting Honor Society, Dallas Chapter  
 Phi Alpha Theta, National History Honor Society  
 U.S. Small Business Association District Director's Award for Excellence  
 San Francisco Business Times Women in Leadership Award  
 Prevent Blindness People of Vision Award  
 United Way of the Texas Gulf Coast Volunteer of the Year  
 Northwood University Outstanding Business Leader  
 "The 50 Most Powerful Women in Business", Fortune, October 2000

15. **Published writings:** (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

None

16. **Speeches:** (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

All formal speeches that I have given in the past five years were related to my industry, not to topics relevant to the position for which I have been nominated.

17. **Qualifications:** (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

My academic experiences have been a useful foundation for serving as Deputy Trade Representative: I majored in Government at the University of Texas and the courses were heavily focused on international topics and my minor was a cross-disciplinary program called International Studies. My Master's study program was in International Management at the University of Texas, Dallas and I certainly studied courses focused on trade as a part of that degree. Upon completion of graduate school, my first professional assignment was in international banking, serving with the Republic National Bank of Dallas' International Department. I served in the Latin American area, and later the European group, both lending money to governments, agencies, banks, and private sector companies in those markets as well as providing trade financing to clients who were doing business in Latin America or Europe.

In subsequent banking assignments, I continued to have opportunities to expand my international horizons. For example, while serving as the Chief Financial Officer for First Interstate Bank, Ltd., I helped negotiate the purchase of Continental Illinois' merchant bank in London and then helped integrate the operations into the First Interstate system. In addition, while serving as CEO of First Interstate of Texas, we were able to provide trade financing products for our middle-market clients. My general senior management experiences also provided ample opportunity to hone my negotiating skills.

Thus, I believe that my academic background and practical work experiences have provided an appropriate framework for now representing the United States in the international trade arena and I look forward to that opportunity.

**B. FUTURE EMPLOYMENT RELATIONSHIPS**

1. **Will you sever all connections with your present employers, business firms, association, or organizations if you are confirmed by the Senate? If not, provide details.**

Yes, I intend to sever all connections with my present employer with the exception of Schwab stock that I presently own and options that I have not yet exercised (but will do within three months of confirmation).

I would like to remain as an honorary trustee for The Museum of Fine Arts, Houston.

2. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.**

I have no plans, commitments, or agreements to pursue outside employment, with or without compensation, during my service with the government.

3. **Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.**

No person or entity has made a commitment or agreement to employ my services in any capacity after I leave government service.

4. **If you are confirmed by the Senate, do you expect to serve out your full term or until the Presidential election, whichever is applicable? If not, explain.**

If confirmed by the Senate, I would expect to serve out my full term or until the next Presidential election.



### C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships, which could involve potential conflicts of interest in the position to which you have been nominated.

Please see the attached letter of undertaking.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Please see the attached letter of undertaking.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of Federal government need not be listed.

As a member of the Texas Banker's Association, I periodically talked with members of the Texas Legislature about banking issues, including the interstate banking legislation. As a board member of the Consumer Bankers Association, I also called periodically on members of Congress to discuss issues pertaining to financial services. For the final two years of my association with First Interstate, I served as the senior management contact for our Government Affairs staff and called with that staff on members of Congress or the Executive Branch to discuss financial services issues.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

Please see the attached letter of undertaking.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative.

Have you ever represented, advised or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

No

#### D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group. If so, provide details.

No

2. Have you ever been investigated, arrested, charged, or held by any Federal State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No

3. Have you ever been involved as party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

I have not been involved in civil litigation personally; however, as the senior officer of a commercial bank I was aware and knowledgeable about the civil litigation in which the bank (First Interstate Bank of Texas, N.A.) served either as a plaintiff or defendant (1988-96).

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? If so, provide details.

No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

## E. TESTIFYING BEFORE CONGRESS

1. **If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?**

Yes

2. **If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?**

Yes

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### PREPARED STATEMENT OF PETER R. FISHER

Chairman Grassley, Ranking Member Baucus, and members of the Committee on Finance, thank you for the opportunity to appear before you today.

I am honored that President Bush has nominated me to serve as Under Secretary of the Treasury for Domestic Finance and, if confirmed, to have the opportunity to work with Secretary O'Neill, the Treasury staff, and others in the Administration to advance the President's economic agenda.

If confirmed, I also look forward to working closely with this Committee, the Senate, and with members of the House of Representatives on the broad range of issues addressed by the Office of Domestic Finance.

Throughout our history, the operations of the Department of the Treasury have played an important role in the evolution of our financial system. The strength and resilience of this system is itself a precious asset. In addition to serving as an advisor to Secretary O'Neill on capital market and financial institution issues, and on debt management, fiscal policy and financial management issues, I especially hope to have the opportunity to work with this Committee to improve upon the efficiency with which the federal government's obligations are financed over the coming years.

My fifteen years of experience with the Federal Reserve Bank of New York has given me the opportunity to learn first-hand about the forces shaping the increasingly global banking and capital markets. As manager of the Federal Reserve's monetary operations since 1995, I have been afforded the unique vantage point of active participation in financial markets from a position of public responsibility. In this capacity I have worked with members of the Federal Reserve Board of Governors and the Reserve Bank Presidents in the formulation and implementation of monetary policy. I have worked with senior Treasury officials on debt management and capital market issues and in the implementation of exchange rate policy. In both of these capacities, I have had the opportunity to learn from the experience of central bankers and finance ministry officials from around the world.

Mr. Chairman, thank you again for the opportunity to appear before the Committee. I hope members of the Committee will support me, and I promise to work diligently and with an open mind on all matters that this Committee may wish to raise with the Office of Domestic Finance. I hope that this will be the beginning of a strong working relationship.

I would like to thank Secretary O'Neill for the confidence he has shown in me by supporting me for this job. I would be pleased to answer any questions that you and other members of the Committee may have.

**SENATE FINANCE COMMITTEE  
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

**A. BIOGRAPHICAL INFORMATION**

1. Name: (Include any former names used.)

**Peter R. Fisher**

2. Position to which nominated:

**Under Secretary for Domestic Finance  
Department of the Treasury**

3. Date of nomination:

**April 30, 2001**

4. Address: (List current residence, office, and mailing addresses.)

**Residence: 645 Ridgewood Road, Maplewood, NJ 07040**

**Office: 33 Liberty Street, New York, NY 10045**

5. Date and place of birth:

**May 25, 1956, Washington, D.C.**

6. Marital status: (include maiden name of wife or husband's name.)

**Married to Mary Sue Fisher (maiden name: Sullivan)**

7. Names and ages of children:

**Charlotte McM. Fisher (8)**

**Duncan B. Fisher (11)**

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

**Harvard Law School, 9/82 – 5/85, J.D. 6/85**

**Harvard College, 9/75 – 5/78 & 9/79 – 5/80, B.A. 6/80**



**Concord Academy, 9/71 – 6/74, high school 6/74**

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

**Executive Vice President, Markets Group, Federal Reserve Bank of New York (FRBNY), New York, NY, 10/94 to present**

**Senior V.P., Foreign Exchange Function, FRBNY, 9/93 – 10/94**

**V.P., Foreign Exchange Function, FRBNY, 7/92 – 9/93**

**Assistant V.P., Foreign Exchange Function, FRBNY, 9/90 – 7/92**

**Secretary, Committee on Interbank Netting Scheme of the G-10 central banks, consultant, Bank for International Settlements, Basle, Switzerland 5/89 – 9/90**

**Counsel, Legal Department, FRBNY, 10/88 – 5/89**

**Staff Attorney, Legal Department, FRBNY, 7/86 – 10/88**

**Law Clerk, Legal Department, FRBNY, 9/85 – 7/86**

**Summer Associate, Shearman & Sterling, New York, NY, 6/84 – 9/84**

**Summer Intern, Federal Reserve Bank of Boston, Boston, MA, 6/83 – 8/83**

**Analyst, Economics & Technology, Inc., Boston, MA, 11/80 – 8/82**

**Paralegal, Cladohous & Brashares, Washington, D.C., 6/80 – 8/80**

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

**None, other than as listed in item 9 above.**

11. Business relationships: (List all positions held [for the past 10 years] as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

**Other than as listed in item 9 above:**

**Trustee (unpaid), Concord Academy, Concord MA, 5/00 to present**

**Consultant (unpaid), International Monetary Fund, Washington, D.C., 10/00 – 1/01**

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

**Member, Council on Foreign Relations**

**Member (inactive), Bar of the State of New York**

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

**None.**

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

**Registered Democrat, Maplewood, NJ**

**No other.**

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

**We cannot recall making any contributions to any individual running for office, campaign organization, political party or political action committee in the last ten years. In 2000 we contributed \$75 to an organization named Hand Gun Control. In 1997 we contributed \$60 to the Sierra Club. We can recall contributing amounts in a range of \$25 to \$75 to Greenpeace and NJPIRG (a consumer and environmental group) in some, but not all, of the years from 1992 to 1997 in response to door-to-door solicitations but we did not keep records of these donations.**

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

**None.**

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

Quarterly Reports on Treasury and Federal Reserve Foreign Exchange Operations, FRBNY, 1994 –2000

Annual Reports on Open Market Operations, FRBNY, 1995 – 2000

"Final Report of the Multidisciplinary Working Group on Enhanced Disclosure", chairman of working group sponsored by the Basel Committee on Banking Supervision, the Committee on the Global Financial System of the G-10 central banks, the International Association of Insurance Supervisors, and the International Organisation of Securities Commissions, April 2001

"Public Disclosure of Market and Credit Risks by Financial Intermediaries", chairman of working group discussion paper, Bank for International Settlements, September 1994

"Report of the Committee on Interbank Netting Schemes", secretary, G-10 central banks, Bank for International Settlements, November 1990

"Time to forget the rhetoric and reconsider the draft", Boston Sunday Globe, (op-ed) April 6, 1980

"Carter's Balance Sheet – Credit: He's keeping most of major campaign promises", The Boston Globe, (op-ed) Sept. 27, 1977

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

Two copies of each of the following are contained in Attachment A.

"Central Banks and Markets: Some Thoughts from a Practitioner," Jan. 22, 1996, Annual International Financial Market Seminar of the State Administration of Exchange Control, The Peoples Bank of China, Zhanjiang, China

Remarks on U.S. government bond market surveillance, Oct., 8, 1996 Money Marketeers of New York University

Remarks on U.S. government bond market surveillance, Jan. 15, 1997, Bond Market Association (formerly the Public Securities Association) Repo and Securities Lending Conference, New York, NY

"Global Currency Market Risks and Rewards," Nov. 28, 1997, 19<sup>th</sup> Asia Pacific Financial Markets Assembly, Hong Kong

Remarks on market turbulence, Oct., 15, 1998, Robert Morris Association Conference on Securities Lending, Boca Raton, Florida

Remarks on the Federal Reserve's Y2K preparations, Dec., 1, 1999, Money Marketeers of New York University

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

My fifteen years of experience with the Federal Reserve Bank of New York has given me the opportunity to learn first hand about the forces shaping our financial system. In particular, since 1995 I have served as the Manager of the Federal Reserve System Open Market Account (SOMA) reporting to the Federal Open Market Committee with direct responsibility for managing the domestic monetary operations of the Federal Reserve, and the foreign exchange operations of the Federal Reserve and of the Exchange Stabilization Fund of the Department of the Treasury.

The position of SOMA Manager has provided me a unique vantage point of active participation in fixed-income and foreign exchange markets from a position of public responsibility. In this capacity, I have been extensively involved in providing advice to, and taking instructions from, the Under Secretary of the Treasury for Domestic Finance on a wide range of debt management and financial market issues, the Under Secretary of the Treasury for International Affairs on foreign exchange policy and on international capital market issues, as well as other Treasury officials.

#### **B. FUTURE EMPLOYMENT RELATIONSHIPS**

- 1 Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

**I plan to sever all connections with Federal Reserve, with the exception of maintaining my own and my spouse's pension rights and thrift investments with the Federal Reserve Employee Benefits System (FREBS).**

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

**No.**

3. Has any person or entity made a commitment or agreement to employ your



services in any capacity after you leave government service? If so, provide details.

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes.

**C. POTENTIAL CONFLICTS OF INTEREST**

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

My spouse is employed, currently without compensation, as chief administrative officer and general counsel with McCabe Advisors LLC, an investment management business operating in a "fund of funds" format. In the future, she will receive from McCabe a base salary once the business is funded, and she will be eligible for a bonus based on the quality of her job performance. As a new company, McCabe anticipates that it will not award bonuses in 2001.

Trustee and contingent beneficiary, Roger D. Fisher Revocable Trust

Trustee, Caroline S. Fisher Revocable (unfunded) Trust

Trustee, Concord Academy

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

None.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee

with two copies of any trust or other agreements.)

**If confirmed, I will take the following steps upon appointment:**

**I will not participate in any particular matter that directly and predictably affects McCabe Advisors LLC's ability or willingness to pay my spouse's compensation. Further, pursuant to 5 C.F.R. 2635.502, I will not knowingly participate in any particular matter involving specific parties in which McCabe is or represents a party, unless I am authorized to participate.**

**I will resign my positions as trustee with respect to both my parents' revocable trusts and from the Board of Trustees of Concord Academy. Since the Roger D. Fisher Trust holds individual stocks that might pose a conflict of interest under 18 USC § 208, I will seek a waiver with respect to the holdings of this trust under 18 USC § 208(b)(1). Until that waiver is granted, I will not participate personally and substantially in any particular matter that directly and predictably affects that trust.**

**I do not foresee any other possible conflicts of interest. Should any such issues nevertheless arise, I will promptly consult with Treasury ethics officials.**

5. **Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.**
6. **The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:**

**Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.**

**Not applicable.**

#### **D. LEGAL AND OTHER MATTERS**

1. **Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.**

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

**In May 1990 I was involved in a traffic accident in Basel, Switzerland, involving the car I was driving and a motorbike. I have been unable to locate any records of this incident. My recollection is that, subsequent to our departure from Switzerland, the Basel Police found me to be contributorily negligent for some but not all of the cause of the accident. As a consequence, I was assessed and paid a fine of 250 Swiss francs for a moving violation of Swiss traffic law.**

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

#### **E. TESTIFYING BEFORE CONGRESS**

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be, reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

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#### **PREPARED STATEMENT OF JIMMY GURULE**

Thank you Chairman Grassley, Senator Baucus, and members of the Committee. It is an honor and privilege to be here today to testify in support of my nomination to serve as the next Under Secretary of the Treasury for Enforcement.

I would like to thank President Bush for the opportunity to serve my country and the new Administration. I further would like to thank Secretary Paul O'Neill for his support and confidence. I am excited about the possibility of serving under his strong leadership at the Treasury Department.

Before proceeding any further, I would like to take the opportunity to introduce my family. For the past twenty-one years, I have been blessed with a loving and

supportive wife. Please allow me to introduce my wife, partner, and best friend, Julia Cordova-Gurule. I further have been blessed with three wonderful children, two to whom were able to accompany me today my fourteen-year-old son, Alejandro, and my eleven-year-old daughter, Sophia. Unfortunately, their older brother, Santiago, who just completed his sophomore year of studies at the University of Notre Dame, is working and could not make the trip.

I look forward to the challenges, opportunities, and responsibilities that await me if confirmed as the next Under Secretary for Enforcement. I believe that I am uniquely qualified to hold this important Treasury post.

I have served as a federal and state prosecutor for approximately ten years. At Notre Dame Law School, I currently teach Criminal Law, Criminal Procedure, Complex Criminal Litigation, and International Criminal Law, and have had the opportunity to publish extensively on a broad range of criminal justice issues. Based on the totality of these experiences, I understand the critical issues confronting federal law enforcement officers investigating international drug trafficking, domestic and international money laundering, and complex criminal enterprises.

My management and administrative experience, gained while serving in the former Bush Administration at the Department of Justice as Assistant Attorney General for the Office of Justice Programs, has prepared me to administer the diverse activities of the law enforcement bureaus and offices that comprise the Office of Enforcement.

The Treasury law enforcement bureaus have a long and distinguished history. Each bureau contributes unique expertise to enforcing our nation's laws and protecting its citizens.

If confirmed, I will provide strong leadership to the Office of Enforcement, maintain the public's trust, and work in partnership with Congress to meet the challenges faced by the Treasury Department and its bureaus.

Thank you Mr. Chairman. I would be happy to answer any questions.



SENATE FINANCE COMMITTEE  
STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.) Jimmy Gurulé
2. Position to which nominated: Under Secretary for Enforcement, U.S. Department of the Treasury.
3. Date of nomination: April 30, 2001
4. Address: (List current residence, office, and mailing addresses.)  
Residence: 151 Covington Bluff Court, Niles, MI 49120;  
Office: Notre Dame Law School, room 212, Notre Dame, IN 46556
5. Date and place of birth: June 14, 1951, Salt Lake City, Utah
6. Marital status: (include maiden name of wife or husband's name.) Married to Julia Cordova
7. Names and ages of children: Santiago Roberto, 19 years old; Alejandro Daniel, 14 years old; and Sophia Eiena, 11 years old.
8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.) Murray High School, attended 1966-1969, high school diploma; University of Utah, attended 1969-1974, B.A. English; and University of Utah College of Law, attended 1977-1980, J.D. degree.
9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)  
Trial Attorney, Criminal Division, Narcotic and Dangerous Drug Section, U.S. Department of Justice, Washington, D.C., from 1980 to 1983;

Deputy County Attorney, Special Counsel Metro Narcotics Strike Force, Salt Lake County Attorney's Office, Salt Lake City, Utah, 1983 to 1985;

Assistant United States Attorney, Deputy Chief of Major Narcotics Section, United States Attorney's Office, Central District of California, Los Angeles, California, from 1985 to 1989;

Professor of Law, Notre Dame Law School, Notre Dame, Indiana, from 1989 to 1990;

Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice, Washington, D.C., from 1990 to 1992;

Professor of Law, Notre Dame Law School, Notre Dame, Indiana, from 1992 to present.

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.) None besides those listed above.
11. Business relationships: (List all positions held [for the past 10 years] as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

Roy Haber Law Firm, legal consultant, 2000;

Program Director, Criminal Practice Institute, National Institute of Trial Advocacy ("NITA"), 1999; and

Chairman, Criminal Justice Advisory Board, LEXIS-NEXIS, from 1998-1999.

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Advisory Council, Notre Dame Center for Civil and Human Rights, from 2000 to present;

Hispanic National Bar Association – 1982 to present;

Editorial Advisory Board, HARVARD JOURNAL OF HISPANIC POLICY, from 1996 to present;

Advisory Board, John Marshall Law School and American Bar Association, Criminal Justice Section, National Criminal Justice Trial Advocacy Competition, from 1992 to present;

Advisory Board, Witness Protection Foundation, from 1998 to present;

Vice-president, Michiana Soccer Club (youth soccer club), from 2000 to present;

Member, American Bar Association Commission on Opportunities for Minorities in the Profession, 1999;

Editorial Board, American Bar Association/*BNA Lawyers' Manual on Professional Conduct*, from 1994 to 1996; and

Board of Directors, "Just Say No" International, from 1989 to 1990, and 1992 to 1994.

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate. None.
- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Bush/Cheney Transition Team Advisory Member;

Bush Criminal Justice Advisory Group.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

Republican National Committee (total of \$400 over past 5 years).

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

## **LAW SCHOOL**

University of Notre Dame "Presidential Award" in recognition of legal scholarship, outstanding teaching, and service to the Notre Dame community (1997);

## **LAW ENFORCEMENT**

Attorney General's Award for Excellence in Management (awarded by Attorney General William P. Barr) (1992);

Drug Enforcement Administration Administrator's Award for "Outstanding Contributions in the Field of Drug Law Enforcement" (awarded by DEA Administrator Robert C. Bonner) (1992);

Edmund J. Randolph Award (awarded by Attorney General Dick Thornburgh) (1991);

Attorney General's Distinguished Service Award (awarded by Attorney General Dick Thornburgh) (1990);

Drug Enforcement Administration Administrator's Award (highest award conferred by the DEA) (1990);

Drug Enforcement Administration Certificate of Appreciation for "Outstanding Contributions in the Field of Drug Law Enforcement" (1987);

### **HISPANIC COMMUNITY**

Hispanic National Bar Association President's Award for Outstanding Leadership in the Hispanic American Community and Legal Profession (1993);

Hispanic National Bar Association Law Student Division Lifetime Achievement Award (1991);

Selected as one of the "100 Most Influential Hispanics" by HISPANIC BUSINESS MAGAZINE (1987, 1989, and 1990);

### **OTHER**

"Child Advocate" Award, National McGruff House Network (1991).

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

### **BOOKS**

THE LAW OF ASSET FORFEITURE (with Sandra Guerra) (Lexis Law Publ. 1998 and Annual Supplements 1999, 2000);



CRIMINAL AND SCIENTIFIC EVIDENCE (with Robert J. Goodwin) (Michie Co. 1997);

COMPLEX CRIMINAL LITIGATION: PROSECUTING DRUG ENTERPRISES AND ORGANIZED CRIME (LEXIS Publ. - 2d. Edition 2000) and Annual Supplements for 1997, 1998, 1999;

INTERNATIONAL CRIMINAL LAW: CASES AND MATERIALS (with Jordan J. Paust, M.C. Bassiouni, Michael Scharf, Leila Sadat, Bruce Zagaris, and Sharon Williams) (Carolina Academic Press -- Second Edition 2000);

INTERNATIONAL CRIMINAL LAW DOCUMENTS SUPPLEMENT (with Jordan J. Paust, M.C. Bassiouni, Michael Scharf, Leila Sadat, Bruce Zagaris, and Sharon Williams) (Carolina Academic Press 2000).

## ARTICLES

*Fair Trial Rights Under United States Law*, SCIENCE AND TECHNIQUE OF DEMOCRACY, No. 28, 95 (2000) (Council of Europe Publishing);

*The Permanent International Criminal Court: Is The Jurisdiction Of The Court Truly Complementary To National Criminal Jurisdictions?*, AMICUS CURIAE, JOUR. OF SOC. FOR ADV. LEGAL STUDIES (UNIVERSITY OF LONDON 2001);

*The 1988 U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances -- A Ten Year Perspective: Is International Cooperation Merely Illusory?*, 22 FORDHAM INT'L. L. JOUR. 74 (1998);

*The Money Laundering Control Act of 1986: Creating A New Federal Offense Or Merely Affording Federal Prosecutors An Alternative Means of Punishing Specified Unlawful Activity?*, 32 AM. CRIM. L. REV. 823 (1995);

*Federal Asset Forfeiture Reform: The Ancient Roots of Modern Forfeiture Law*, 21 NOTRE DAME JOUR. LEGIS. 155 (1995);

*Terrorism, Territorial Sovereignty, and the Forcible Apprehension of International Criminals Abroad*, 17 HASTINGS INT'L. & COMP. L. REV. 457 (1994).

## OTHER PUBLICATIONS

FEDERAL ASSET FORFEITURE GUIDE (James Publ.-- monthly publication);

*"Justice Delayed Is Justice Denied": May a Prisoner's Challenge To Parole Revocation Be Delayed Until The Sentence Is Completed and Then Dismissed As Moot?*, 2 PREVIEW OF SUPREME COURT CASES 106 (1997);

*The Double Jeopardy Dilemma: Does Criminal Prosecution and Civil Forfeiture in Separate Proceedings Violate the Double Jeopardy Clause?*, 7 PREVIEW OF SUPREME COURT CASES 325 (1996);

*Cooperating With the Prosecutor: How Many Motions Does It Take to Secure a Sentence That is Less Than the Mandatory Minimum Provided by Statute?*, 5 PREVIEW OF SUPREME COURT CASES 241 (1995);

*Multiple Punishment for Similar Crimes: Is the Double Jeopardy Clause Violated?*, 3 PREVIEW OF UNITED STATES SUPREME COURT CASES 104 (1995);

*Bush's Case is Far Stronger*, USA TODAY, p. 17A (11/30/00);

*Lewinsky Still May Not Testify*, USA TODAY, p. 15A (2/19/98);

*Dismantling the Foundations of Crime*, THE IRISH TIMES, (Dublin, Ireland) (7/25/96);

*Think Twice on Extradition Treaty*, CHICAGO TRIB., Sect. 1, p.11 (6/27/94);

*Don't Be a Party to One-Sided Extradition Treaty With Mexico*, HOUSTON CHRONICLE, p.4E (6/26/94);

*Legalized Drugs: No Cure for Crime*, CHICAGO TRIB., Sect.1, p.15 (1/24/94); and

*Not By Law Enforcement Alone*, THE WASHINGTON TIMES, p. F4 (2/5/92).

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

Overview of Federal Money Laundering Statute and Federal Tax Crimes (April 1997);

Review of Significant Court Decisions on Federal Asset Forfeiture (May 1999) (text of speech not prepared);

The House of Lords' Decision on the Extradition of Pinochet: A Gross Misapplication of the Dual Criminal Doctrine (April 1999);

Federal Criminal & Civil Asset Forfeiture (May 2000); and

United States Opposition to the 1998 Rome Statute Establishing an International Criminal Court: Is the Court's Jurisdiction Truly Complementary to National Criminal Jurisdictions? (October & November 2000).

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I believe that I am highly qualified to serve as the next Under Secretary for Enforcement at the U.S. Department of the Treasury based on my hands-on experience working as a federal and state prosecutor for approximately ten years, my administrative and management experience gained during my tenure as Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice (1990-1992), and my extensive legal teaching, research and scholarship on issues related to combating organized crime and international drug trafficking.

#### **B. FUTURE EMPLOYMENT RELATIONSHIPS**

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

No. My intent is to return to Notre Dame Law School after completion of my tenure of service as Under Secretary for Enforcement, U.S. Department of the Treasury.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

I have publishing contracts with Lexis Publishing, Matthew Bender & Company, James Publishing, and Carolina Academic Press that require me to publish periodic supplements to my legal casebooks and treatises. I will make arrangements for someone else to publish those supplements. I also receive royalties on a semi-annual basis for these publications.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details. See response to question 2.
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain. Yes.

### C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. None.
2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. None.
3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

Testimony before the Senate Committee on the Judiciary, Subcommittee on Youth Violence on the Reorganization of the Office of Justice Programs (1999);

Testimony before the Senate Committee on Labor and Human Resources, Subcommittee on Children and Families on "Juvenile Crime: An Alarming Indicator of America's Moral Poverty" (1996);

Testimony before the Government Information, Justice and Agriculture Subcommittee of the House Committee on Government Operations on the Federal Witness Protection Program and the Protection of Foreign Nationals Who Testify for the Government (1990).

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)

I do not foresee any potential conflicts of interest. Should any potential conflicts arise, I will consult with Treasury Ethics officials.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.



6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

#### **D. LEGAL AND OTHER MATTERS**

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Yes.

In April 1983, while working as a Deputy County Attorney in the Salt Lake County Attorney's Office, a complaint was filed against me with the Utah State Bar objecting to statements I made to the news media regarding the unsecured pretrial release of out-of-state defendants who had been charged with multiple felony drug trafficking violations. The defendants had been residing in California when they were arrested in Salt Lake City for possession with intent to distribute multiple kilogram quantities of cocaine. The out-of-state defendants were released from custody after the defense attorney contacted the duty magistrate ex parte, requesting their pretrial release. The defendants were released without my knowledge and without an opportunity to be heard in open court.

The complaint was without merit. In fact, the complainant subsequently moved to withdraw the complaint. In July 1983, the complaint was dismissed by the Utah State Bar Committee on Ethics and Discipline. The Committee expressly found no violation of the Utah Revised Rules of Professional Conduct.

In November 1985, while working as a Deputy County Attorney in the Salt Lake County Attorney's Office, a complaint was filed against me with the Utah State Bar alleging that I did not have a good faith basis for asking a particular question of a defense character witness during cross-examination at trial. The allegation was frivolous and summarily dismissed by the Screening Panel of the Ethics and Discipline Committee of the Utah State Bar. I have attached a copy of a letter from Associate

Bar Counsel, Karin S. Hobbs, dated September 23, 1986, notifying me of the Screening Panel's decision to dismiss the complaint.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details. No.
3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details. See response to question 1.
4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details. No.
5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None.

#### **E. TESTIFYING BEFORE CONGRESS**

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be, reasonably requested to do so? Yes.
2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees? Yes.

#### **RESPONSES TO QUESTIONS FROM SENATOR BAUCUS**

*Question 1:* In light of the expected near doubling of cross-border truck traffic from Mexico, what should Treasury and the Customs Service do to address the need for enhanced drug-interdiction inspections of Mexican trucks? What additional resources should the Administration commit to this effort?

*Answer:* As global trade has expanded, the Customs Service commercial workload has continued to escalate dramatically. The volume of commercial land border traffic has increased by over 140 percent during the last 10 years. In FY 1990 U.S. Customs processed 1.9 million commercial trucks entering the United States via the Southwest Border. In FY 2000, that volume increased to 4.5 million trucks. Customs believes that the NAFTA provision allowing Mexican trucks to enter the United States will result in commercial cargo increases similar to those seen over the past ten years.

In an attempt to meet the demands of this increased traffic, Customs developed a Five-year Non-Intrusive Inspection (NII) Technology Plan in 1997. The plan was developed to address the narcotics smuggling threat created by the potential for deep concealment in commercial cargo and conveyances. NII systems give Customs the capability to perform thorough examinations of cargo without having to resort to the costly and time consuming process of manual searches.

The current Five-year Technology Plan is just the beginning. The tremendous growth in international traffic dictates an ever-pressing need for more NII systems, and the staff to operate them. These systems and personnel must be acquired now to ensure an adequate response to the demands that will be placed on our nation's borders. As of March 2001 Customs had obligated \$116 million of the \$135 million Five-year NII Plan. The unfunded requirement for completing the inbound portion of the 5-year plan is between \$70 and \$80 million—depending on which Sea Container system is eventually selected (there is a cost difference between the two vendors' systems being considered). Customs has a total requirement for seven sea container systems, of which we have funding for three. The major portion of this \$70—

\$80 million requirement is for Heavy Pallet NII systems. The VACIS-based system currently in testing is projected to cost \$1.7 million. Preliminarily, Customs has defined a requirement for 22 systems.

Customs is not requesting the unfunded requirement in FY 2002 because Customs wants to complete, and then evaluate, its deployment, training and staffing strategies before requesting and deploying additional systems.

**Question 2:** TIGTA reports that IRS is not doing a good job of ensuring that non-bank financial institutions are complying with the Title 31 financial transaction reporting and record keeping requirements. Have you reviewed the TIGTA report? As the chief law enforcement officer at Treasury, what specific recommendations would you propose to address the lack of effective enforcement in this area?

**Answer:** The Office of the Under Secretary (Enforcement) has only policy coordination oversight over this function of the Internal Revenue Service. Therefore, my ability to respond is somewhat limited.

The report to which you refer is a review of the IRS' responsibility to ensure that certain types of financial institutions—primarily money services businesses and casinos—comply with the reporting and record keeping requirements of the Bank Secrecy Act (BSA). That compliance preserves the financial trail that is necessary for investigators to get at the financial aspects of criminal activity, not only money laundering, but fraud, smuggling, and other financial crimes.

Efficient and effective administration and enforcement of the BSA is an important part of the job of Treasury Enforcement; and, I will be tracking the IRS response to the TIGTA Report carefully. IRS has already begun a thorough review of its Title 31 programs in order to upgrade both its educational and its examination activities. Also, IRS management has produced a set of internal recommendations in response to the TIGTA Report. I have asked IRS to provide a copy of this response to you.

#### RESPONSES TO QUESTIONS FROM SENATOR ROCKEFELLER

I am pleased to respond to the questions you posed regarding certain specific recommendations made to the Congress by the Judicial Review Commission ("the Commission") in its final report of January 23, 2001, relating to the operations of the Office of Foreign Assets Control ("OFAC"). I commend the Commission for its thoroughness and its recognition of the need to balance legitimate governmental interests with fundamental principles of due process. I also appreciate its recognition of the good faith and professionalism with which OFAC's sanctions programs are administered, particularly given the limited resources currently available. My answers to your specific questions follow.

**Question 1:** Do you support recommendation #5? Are you prepared to take the recommended steps administratively in order to obviate the need for Congressional action?

**Recommendation #5:** Congress should require OFAC to make certain revisions to its licensing procedures so that those procedures are more responsive to the legitimate needs of U.S. persons affected by the blocking of assets of foreign persons.

**Answer:** Each of the OFAC's twenty-one economic sanctions programs contains broad prohibitions imposed by the President or Congress severely limiting transactions and other dealings by U.S. persons with target governments, entities and individuals. Specific licenses authorizing exceptions to these prohibitions serve as a means of mitigating the adverse impact of sanctions on U.S. persons by responding to their needs when to do so would not undermine the unique national security and foreign policy objectives of the particular program. Many of these programs have been added in the past few years, dramatically increasing the demand of the regulated community for complex licensing determinations involving international financial transactions and the target governments, entities and individuals.

While I do not support mandatory time frames limiting the intra- and interagency deliberative process with respect to license determinations, I am acutely conscious of, and fully committed to, meeting the legitimate expectations of U.S. persons for an expeditious and simple process to obtain determinations on license applications. Since the Commission submitted its report, OFAC has taken several steps to speed the review of license applications with the goal of providing two week turnaround by December 31 of this year for routine applications not requiring interagency review. These steps include hiring new staff members this fiscal year to meet this goal. I will continue to monitor the situation.

Many concerns regarding delays raised by license applicants, however, implicate the interagency review process, given the underlying foreign policy or national security issues that their applications raise. In many instances, mandatory time frames would prevent the deliberative process from running its course, and result in the



denial of licenses without the applications having been vetted thoroughly and appropriately. While it is important to be as timely as possible, to cut this process short could thus result in a disservice to the applicant. In this regard we are constantly reviewing our processes to streamline procedures and to provide better customer service.

*Question 2:* Do you support recommendations #7, #9, and #10? If so, will you initiate the steps necessary to effectuate them and set a deadline for their completion?

**Recommendation #7: OFAC should promulgate regulations that both reflect current internal policies regarding civil penalties and establish "safe harbors."**

**Recommendation #9: OFAC should publish proposed sanctions regulations for public notice and comment unless exigent circumstances are present.**

**Recommendation #10: OFAC should take steps to expand and enhance the "transparency" of its operations and decision-making standards in order to facilitate greater understanding of, and compliance with, the sanctions laws it administers.**

*Answer:* I fully support these recommendations of the Commission and OFAC has already taken many of the steps necessary to effectuate them. With respect to the recommendations we have taken the steps described below.

*Recommendation #7.* With regard to OFAC's internal civil penalty guidelines, OFAC has committed to updating and formalizing the guidelines provided to the Commission and published as an appendix to the Commission's report, and has set the end of this calendar year as a deadline for making public the revised guidelines. As stated to the Commission, the guidelines in their current form were first prepared in draft in 1995 and represent an evolving document with numerous internal agency comments, other deliberative material, and edits not appropriate or intended for publication outside of the agency. The guidelines, when published, will address the issues regarding "safe harbors," that is, setting forth the criteria by which certain violative transactions may be considered technical or *de minimus* in nature, and thus not of the kind normally referred for civil penalty action. OFAC also expects to amend its website in the near future to post information concerning certain completed penalty enforcement actions that will serve as guidance to the public on OFAC's civil penalty enforcement.

*Recommendation #9.* Beginning with the publication of two sets of regulations in January of this year—one set involving the Taliban and the other Russian highly enriched uranium—OFAC issued interim rules with requests for comment prior to the issuance of these rules in final form. These rules became effective immediately, since exigent circumstances are always present in the context of the regulatory implementation of a declared national emergency, where interpretive guidance and statements of licensing policy are used to clarify the scope of a given Executive Order. While public comments have been informally factored into draft regulations prior to their issuance in the past, the public now has the opportunity to formally comment on interim rules prior to publication in their final form. These comments will now be publicly available and will be addressed in the preamble of the final rule. The final rule implementing the uranium emergency will be published this month.

*Recommendation #10.* OFAC has set the following objectives to promote transparency: 1) issuing implementing regulations within sixty days of the issuance of an Executive Order or enactment of legislation with an opportunity for public comment; 2) publishing guidelines by the end of the calendar year that reflect internal policies regarding civil penalties; 3) adding a section of frequently asked questions ("FAQ's") and copies of previously issued semi-annual Presidential reports to Congress as required by statute on the administration of sanctions programs to its website; and 4) posting interpretive rulings on its website when appropriate, redacted to protect proprietary information. As resources permit, OFAC also intends to review prior interpretive rulings issued over the past several years to determine if they are still valid and appropriate for public dissemination in redacted form. I believe all of these measures will promote transparency and enhance compliance with sanctions regulations, reducing the need to rely on enforcement action.

*Question 3:* Do you support recommendation #11? Are you willing to establish such a committee without a statutory requirement?

**Recommendation #11: Congress should establish an advisory committee to provide a forum for dialogue between OFAC and the U.S. business community affected by sanctions laws.**

*Answer:* I believe it is necessary to emphasize that OFAC's mission is to implement, administer and enforce financial and commercial restrictions designed to ac-



comply with foreign policy and national security objectives, usually in the context of a declared national emergency involving hostile foreign regimes, terrorists or narcotics traffickers. In this regard, OFAC's role is to implement the foreign policy of the United States. Unlike the Department of Commerce's Bureau of Export Administration, OFAC's deliberations concern whether certain transactions should be authorized with a target government or foreign entity, such as a designated narcotics front company, not the technicalities of whether a particular commodity has dual use application.

If the role of an advisory committee were exclusively limited to OFAC's operations, it would largely concern the procedural issues already outlined in the preceding two questions. The Commission itself has already served an extremely valuable and useful service in this regard. The procedures already addressed in this response to your inquiry relating to the processing of license applications, publication of civil penalty guidelines and regulations, and the promotion of transparency through publication of OFAC's interpretations and rulings, are examples of how OFAC responds to the needs of the regulated community.

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#### PREPARED STATEMENT OF BOBBY JINDAL

Good afternoon. I am honored and humbled to be here before you today. I want to thank each of you for this opportunity.

I have enjoyed meeting with several of you and your staffs over the past couple of weeks, and I appreciate your courtesy in meeting with me. I especially appreciate your generosity in sharing your ideas and offering your support as we work to meet the health and human service needs of all Americans. I know issues, like regulatory reform and disparate payment rates, are important to many members of this Committee, and I look forward to working with you and your staffs to see how we can address these issues. It is good to see many familiar faces, from my previous work, and I look forward to meeting and getting to know all of you.

I especially want to thank Senator John Breaux for his introduction of me to the Committee. I also want to thank Senator Mary Landrieu and Representative Billy Tauzin, who also offered to be present to help introduce me to the Committee. Indeed, I am grateful to the entire Louisiana delegation, Republican and Democrat, for their support. I am grateful to have had the opportunity to observe and participate in the strong bipartisan tradition demonstrated by Louisiana's elected leaders.

I am also grateful to the American Health Care Association, Healthcare Leadership Council, Indian associations, and others that have sent unsolicited letters of support to the Committee.

I want to introduce my wife, Supriya, who was able to fly from Baton Rouge to be here today for this exciting and humbling experience.

#### **Louisiana Health Experience**

As Louisiana Governor Mike Foster's Secretary of Health and Hospitals, I was privileged to work with an excellent team to start reforms necessary to transform our state's health care system. We were required to lower annual spending by over \$1 billion (almost 25%) and to reduce spending three years in a row, in response to an inherited deficit, but we made the delivery of high quality health care services our top priority. We built on the work of our predecessors, and reached out to include both providers and recipients.

For example, Louisiana implemented its first computerized pharmacy system in over 1,100 pharmacies statewide. The result was \$13 million in annual savings and the prevention of over 120,000 duplicate or harmful prescriptions. Health outcomes improved, as the state also experienced a 40 percent reduction in emergency room visits for 3,000 chronically ill patients. The combination of linking patients with convenient access to providers and providing those providers with information resulted in better health outcomes and taxpayer savings. These kind of "win-win" innovations allowed Louisiana to reduce its spending, while better serving hundreds of thousands of its citizens.

During the 1990's, Louisiana continued to improve on trends started before the Foster administration. Immunization rates for two-year-olds visiting health units rose from 55 percent to 80 percent over five years, exceeding national goals in four of five categories established by the Clinton administration. Louisiana also improved its rate of screenings and immunizations from 37th to 3rd best in five years. Working with the private sector to finance mobile clinics and educational outreach programs in retail outlets, like fast food restaurants and grocery stores, allowed Louisiana to bring preventive health care services to our vulnerable children. These in-

vestments in cost-effective preventive care again produced “win-win” outcomes that generated savings and better outcomes.

Louisiana reduced by one-half the percentage of tobacco sales to minors, three years ahead of the national schedule for tobacco sales cuts established by the Congress and the Clinton administration. Again, we partnered with the private sector to deliver a cost-effective education outreach program. I am proud of the fact that our retailers voluntarily saw an opportunity to serve their communities and helped Louisiana achieve this dramatic turnaround.

We passed aggressive laws and implemented tough policies to combat fraud and abuse that had once been rampant in Louisiana’s Medicaid program. Though the vast majority of providers and recipients were dedicated to providing cost-effective health care, a small number were exploiting the program for personal gain. We established a toll-free hotline and computer website for citizens to report fraud, offered rewards for tips leading to successful recoveries, increased our collection and exclusion rates, hired auditors financed through program savings they generated, and documented tens of millions of dollars saved annually. As a result of our anti-fraud accomplishments, we hosted a national conference and helped write best-practice policies to share with other states, and I was invited to testify to the U.S. Senate Committee on Aging, chaired by Senators Grassley and Breaux. The challenge is to prevent the waste and fraud, rather than attempting to recover dollars after they have been spent, while also minimizing the burden on honest providers and recipients. I am grateful to the Senators for their early attention to the impact of fraud on our nation’s health care programs and infrastructure.

There were several other innovations implemented in Louisiana’s health care program. For example, the state worked with the medical schools to coordinate management of the charity hospital system, increased the use of drug courts, strengthened uninsured programs for rural hospitals, and increased local participation in the management of health care programs. Having celebrated Mother’s Day just a few days ago, I think it is noteworthy to mention we opened the state’s first residential drug treatment center for mothers and their children. I know Senator Hatch and others have a keen interest in improving the efficacy of our nation’s treatment and prevention efforts, and I thank them for their leadership on this important issue.

We attempted to reform the state’s health care program, governed by principles, for example including the following: “The state should not be both a purchaser and provider of care, but rather should focus on the role it could serve best.” “Spending should follow the consumer, not particular programs.” “The department should focus on promoting outcomes, not managing processes.” “We should always be guided by what is clinically best for the people we are serving.”

We were able to reduce spending and root out fraud, but I am pleased that advocates realized we were most concerned with improving the quality of care. For example, I received a special advocacy award from the Louisiana Association of Retarded Citizens, and AARP’s national leadership came to praise innovations adopted by Louisiana. There remains much work to be done, and Louisiana—like other states—certainly cannot afford complacency, but we were able to restore stability and provide a solid foundation for the state’s health care programs.

### **Medicare Commission**

I am pleased to have had the opportunity to work with some of you and your staffs previously through the National Bipartisan Commission on the Future of Medicare. Though the Chairmen’s recommendations were not unanimously adopted, and I know there is serious and sincere disagreement about some of the particular details, I believe the Commission helped identify some of the challenges facing the program as it enters the twenty-first century.

Medicare has served millions of beneficiaries well for over three decades, and it is important that we strengthen the program so that it can continue serving beneficiaries well. Through the Commission’s hearings, we learned that the Medicare program faces fiscal issues challenging its long-term solvency, especially as the Baby Boomers begin to retire. We also learned that the benefit package, though reflective of modern insurance when the program was created, appears inadequate when compared to both current private coverage and the needs of current beneficiaries. Finally, we looked at various measures of efficiency and complexity that can help us evaluate the program’s operations.

Clearly, much work must be done as we address these and other challenges. As the President and the Secretary have stated, the Commission’s work can provide a good starting point for continued dialogue on the issue surrounding Medicare reform. I do not presume to know the direction the policy discussion will take, but I look forward to working with you to develop policies to complete the task.



## Louisiana Higher Education

I am grateful to have spent the last two years working with Louisiana's higher education system. I know firsthand the power of education, as my father was the first in his family to graduate from high school—much less the first to graduate from college. I know how different our life has been because of the opportunities he has had.

The eight universities comprising the University of Louisiana System have experienced historically high accreditation rates, exceeding 92 percent, record-breaking increases in privately endowed chairs and professors and fundraising, a 66 percent increase in externally funded research and development over five years, a dramatic drop in remedial hours, and increases in retention and graduation rates. The universities partnered with community and technical colleges to increase access, offered the state's first online degrees, identified and focused on unique areas of excellence rather than being all things to all people, offered online and a unified applications process for the first time, guaranteed the success of new K-12 teachers, aligned entrance math and English requirements, and worked to create a seamless pre-K through 16 education experience for Louisiana's students.

I helped to initiate a partnership program with the medical schools and K-12 systems to encourage more students from rural and underserved areas to return to those areas to provide needed health care services. Louisiana is a rural state, and I know our access concerns are shared by many members of this Committee. The program is designed to introduce qualified minority students, and other undergraduates from underrepresented rural and inner-city areas, to the opportunities to participate in world-class health care research, guarantee medical school admissions for the best of these students, provide scholarships for rural students, assign interns to rural areas for medical training, promote joint faculty research projects and semester-long internships, and interest more K-12 students in studying the health sciences. I believe in this program so strongly that I donated my earnings from teaching at Louisiana State University last semester, in part, to fund these summer scholarships.

Our universities and their eight nursing programs, are also operating clinics to increase access to services, and initiating a partnership with local health care providers to use state workforce training grants to prepare tomorrow's workforce and help address shortages.

Just as I am gratified by the support of the provider and advocacy communities during my time with Department of Health and Hospitals, I am also pleased to have enjoyed the support of and to have received commendations from the faculty, students, and the Board.

## Conclusion

The Department of Health and Human Services touches the lives of millions of Americans everyday in many different ways. I certainly have not mentioned every issue that is important to you and your constituents. For example, I expect the Department will be involved in discussions of how to include a prescription drug benefit in Medicare, improve the operations of HCFA, pass a federal patients' bill of rights, improve access and coverage for the uninsured, promote long-term care coverage and community-based options, increase rate flexibility and accountability, and enhance quality of care. It is my hope and expectation that we will be able to work on these issues together.

I am not here today to create new policies beyond those already announced by the Administration. However, I am grateful to have been nominated by President Bush and would very much like the opportunity to work as a member of Secretary Thompson's team. If fortunate enough to be confirmed, I do look forward to working with you and your staffs to address the issues discussed today.

Celebrating Mother's Day this past weekend, I heard from my own mother again how I was once a "preexisting condition." My parents moved to Louisiana, where I was born and raised, when my mother was already four months pregnant. They were fortunate to have health insurance through my father's job with the railroad company, but the coverage did not cover the pregnancy. My parents did not own a home and the bill for the delivery almost equaled their life savings at the time, but the doctor and hospital offered to accept monthly payments. I am therefore sensitive to the plight of millions of Americans today that lack secure access to high quality health care, and I look forward to working with you on their behalf.

It is an honor for me to be here today, and I would happy to answer any questions that you might have.

**SENATE FINANCE COMMITTEE  
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

**A. BIOGRAPHICAL INFORMATION**

1. Name: (Include any former names used.)  
  
Piyush Jindal  
Robert Jindal  
"Bobby" Jindal
2. Position to which nominated:  
  
Assistant Secretary for Planning and Evaluation, DHHS
3. Date of nomination:  
  
April 7, 2001
4. Address: (List current residence, office, and mailing addresses.)  
  
Residence:  
8316 Highland Road  
Baton Rouge, LA 70808  
  
Office/mailing:  
200 Independence Ave., S.W.,  
Room 405F  
Department of Health and Human Services  
Washington, D.C. 20201
5. Date and place of birth:  
  
June 10, 1971, Baton Rouge, Louisiana
6. Marital status: (Include maiden name of wife or husband's name.)



Supriya Jindal  
Maiden name: Supriya Jolly

7. Names and ages of children:

None

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

- a. Baton Rouge Magnet High, 1984-1988
- b. Brown University, 1988-1991, Sc.B. Biology, December 1991
- c. Oxford University, 1992-1994, M.Litt. Politics, August 1994

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

- a. Consultant, U.S. Department of Health and Human Services, Washington, D.C., April 2001 - present
- b. President, University of Louisiana System, Baton Rouge, La., May 1999-April 2001
- c. Instructor, Louisiana State University, Baton Rouge, La., January 2000 - May 2001
- d. Volunteer analyst/adviser, Governor's Office, Baton Rouge, La., April 1999
- e. Executive Director, National Bipartisan Commission on the Future of Medicare, Washington, D.C., February 1998 - March 1999
- f. Secretary, Louisiana Department of Health and Hospitals, Baton Rouge, La., January 1996 - February 1998
- g. Associate, McKinsey & Company, Washington, D.C., September 1994 - December 1995
- h. Junior Engineer, ExxonMobil Chemical Company, Baton Rouge, La., January 1992 - September 1992

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

None

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other

institution.)

- a. President, University of Louisiana System; Secretary, University of Louisiana Board of Supervisors, May 1999 – April 2001
  - b. Board member, Education Commission of the States, November 2000 – March 2001
  - c. Board member, Our Lady of the Lake Hospital, January 2000 – March 2001
  - d. Secretary, Louisiana Department of Health and Hospitals, January 1996 – February 1998 (note: As Secretary, I served on the board of the now-defunct Louisiana Health Care Authority, which was a state board created to manage the state's charity hospitals.)
  - e. Associate, McKinsey & Company, September 1994 – December 1995 (note: I worked for the firm, which consulted for various clients.)
12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)
- a. Board member, Baton Rouge chapter National Conference for Community and Justice, November 2000 – March 2001
  - b. Board member, Capital Area United Way, February 1998
  - c. Board member, Baton Rouge Teach for America, 1997-1998
  - d. Board member (honorary), Catholic Campaign for America, 1995
  - e. Board member, Baton Rouge Better Business Bureau, 1987-1988
  - f. Board member, Baton Rouge Salvation Army, 1986-1987
13. Political affiliations and activities:
- a. List all public offices for which you have been a candidate.  
None
  - b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.  
  
I served as the head of the Rhode Island College Republicans, as well as the Brown chapter, while attending Brown University. In that capacity, I served as an associate member of the Ward Two Executive Committee.
  - c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.  
  
None

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)
  - a. University of Louisiana System Faculty Advisory Council Commendation, 2001
  - b. University of Louisiana System Board of Supervisors Commendation, 2001
  - c. Grambling State University Faculty Senate Award, 2001
  - d. Brown University Top 100 Alumni, 2000
  - e. India Today Top 20, 2000
  - f. Swing Magazine Most Powerful 30 Under 30, 1998
  - g. National Institute of Public Service Jefferson Award (Under 35), 1998
  - h. Honorary Doctorate - Worcester State College (Mass.), 1998
  - i. National Association of Government Accountants Achievement of the Year Award, 1998
  - j. Scholastic Update Top 10 Extraordinary Young American for 2000, 1998
  - k. Outstanding Young Man of America, 1998
  - l. IAPAC Creating a Voice Award, 1998
  - m. NETIP Excelsior Executive Award, 1998
  - n. Baton Rouge Magnet High Most Successful Alumni Class of 1988, 1998
  - o. Modern Healthcare Up & Comer, 1997
  - p. A Magazine's 25 Most Influential Asian-Americans, 1997, 1998
  - q. Louisiana Association of Retarded Citizens Special Advocacy Award, 1997
  - r. Baton Rouge Business Report Top 40 Under 40, 1997
  - s. Louisiana's Most Outstanding Young Man (Junior Chamber of Commerce), 1995
  - t. Rhodes Scholarship, 1992
  - u. All-USA USA Today First Academic Team, 1992
  - v. Phi Beta Kappa (selected as junior), 1991
  - w. Magna cum laude, Brown University (Brown's highest distinction), 1991
  - x. Taubman Public Policy Fellowship, 1990
  - y. Woodmen of the World American History Scholarship, 1988
  - z. Wal-Mart Scholarship, 1988
  - aa. Junior Academy of Science Scholarship, 1988
  - bb. National Merit Scholar, 1988
  - cc. Beta Club Scholarship, 1988
  - dd. Rotary Club Outstanding Student of the Year, Scholarship, 1988
  - ee. Optimist Club Outstanding Senior of the Year, Scholarship, 1988
15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

- a. "Success with ULS' Guide Sent to High Schools," St. Francisville (La.) Democrat, April 12, 2001
- b. "The Progress of ULS Universities," St. Francisville (La.) Democrat, March 26, 2001
- c. "Linking Louisiana Graduates with Louisiana Jobs," St. Francisville (La.) Democrat, March 14, 2001
- d. "Quality in ULS Grows with Endowments," St. Francisville (La.) Democrat, February 28, 2001
- e. "Growing Louisiana with Louisiana Students," St. Francisville (La.) Democrat, February 13, 2001
- f. "Providing Access to Prescription Drugs for America's Retirees," Journal of Louisiana State Medical Society, September 2000
- g. "Forging productive university-business partnerships," State Business Louisiana, Fall 2000
- h. "Roadmap for academic success – University of Louisiana System leader outlines strategic plan," Shreveport (La.) Times, August 8, 1999
- i. "Justification of Justice: Intuitionism," Louisiana Law Review, spring 1999
- j. "Preparing Medicare for the 21<sup>st</sup> Century," Journal of Louisiana State Medical Society, May 1999
- k. "Medicare's Role in Financing Graduate Medical Education," JAMA, April 1999 (co-author)
- l. "To Give or Not to Give," New Covenant, December 1998
- m. "Reflections of a Seven-Year-Old Catholic," New Oxford Review, February 1998
- n. "Anatomy of a Christian Friendship," This Rock, January 1998
- o. "Louisiana: Out of the Swamp," Health Systems Review, November/December 1997
- p. "Beyond Autonomy," Louisiana Law Review, summer 1997
- q. "Medicine and Political Control," Culture Wars, April 1997
- r. "Choice-Sensitive Health Costs," Journal of Louisiana State Medical Society, February 1997
- s. "How Catholicism is Different," New Oxford Review, December 1996
- t. "In Search of a Calling," The Priest, October 1996
- u. "Needs-Based Health Care Rights," Journal of Louisiana State Medical Society, July 1996
- v. "Just Spending in the Face of Concentrated Need," Journal of Louisiana State Medical Society, February 1996
- w. "Hinduism and Christianity," Catholic Dossier, January - February 1996
- x. "How to Witness to Your Faith," New Oxford Review, October 1995
- y. "Just Health Care System Reform," Journal of Louisiana State Medical Society, September 1995
- z. "From the Ganges to Rome," New Covenant, July 1995
- aa. "Atheism's gods," This Rock, February 1995



- bb. "The Relative Effects of Malpractice Liability, Cigarette Consumption, and Physician Income on State Health Care Expenditures," *Rhode Island Medicine*, February 1995
- cc. "Physical Dimensions of Spiritual Warfare," *New Oxford Review*, December 1994
- dd. "The Spiritual Journey of Converts," *America*, July 1994
- ee. "End of the Oxford Movement," *This Rock*, January 1994
- ff. "Has Ecumenism Made Evangelism Irrelevant?," *America*, July 1993
- gg. "Ivy League Catholicism," *Crisis*, September 1992
- hh. "Undergraduate Odyssey: Searching for God at Brown," *Crisis*, December 1991

Note: Some of the recent Louisiana articles, especially on education, have been reprinted in local media.

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)
  - a. 3/21/01 – Association of Government Accountants (Baton Rouge chapter), "Accountability in Health Care and Education"
  - b. 1/25/01 – Association of Government Accountants, "Accountability in Health Care and Education"
  - c. 1/10/01 – Lafayette Parish (La.) Medical Society, "Link between Education and Health Care"
  - d. 8/14/00 – Americans Discuss Health Conversations in Louisiana, "Health Care in America: Understanding the Challenge"
  - e. 8/2/00 – Franklin Parish (La.) Republican Women, "Modernizing Medicare"
  - f. 7/25/00 – NDS Industry Forum 2000, "Restructuring the Medicare Program"
  - g. 5/31/00 – Americans Discuss Health Summit, "Overview on Health Care Challenges in America"
  - h. 5/27/00 – Brown University Commencement Forum, "Restructuring Medicare for the Baby Boomers"
  - i. 5/16/00 – 13<sup>th</sup> Biennial Forum of Government Auditors, "Accountability in Health Care"
  - j. 3/30/00 – Southeastern Louisiana University James Livingston Memorial Ethics Lecture, "Defining and Eliminating Fraud in Health Care"
  - k. 3/9/00 – Ouachita Parish (La.) Medical Society, "University of Louisiana at Monroe"
  - l. 2/4/00 – Headmasters' Association, "Managing Public Health Care and

## Higher Education Systems"

- m. 10/30/99 – Michigan Association of Physicians of Indian Origin, "Medicare"
- n. 10/15/99 – Tulane Medical Alumni Study Club, "The Future of Medicare"
- o. 7/18/99 – Council of State Governments' Southern Legislative Conference, "The Future of Medicare"
- p. 5/27/99 – East Baton Rouge Parish (La.) Republican Women, "Medicare Issues"
- q. 4/99 – Baton Rouge (La.) Rotary Club, "Medicare"

I have given various talks about accountability in health care, but I do not talk from a written text.

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

My education background is in health care policy. I started my professional career working in the private sector with senior management. I have also managed Louisiana's Department of Health and Hospitals, the state's largest agency with over 12,000 employees, and served as Executive Director of the National Bipartisan Commission on the Future of Medicare. In my most recent position, I served as head of the University of Louisiana System, comprised of eight universities serving 80,000 students. I believe this varied experience of working with large organizations and complex issues has prepared me for this position.

#### **B. FUTURE EMPLOYMENT RELATIONSHIPS**

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Yes. (I will continue to have an unvested interest in a defined benefit retirement plan run by an independent company for the State of Louisiana.)

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes

### C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

My wife is an employee of Albemarle Company, a specialty chemicals company that sells products to many types of manufacturers, including pharmaceutical companies. The Company provides matching contributions to employee retirement plans through the purchase of its stock.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

My wife divested her stock in Pharmacia, which she received from her former employer, Monsanto, as a matching contribution to her retirement plan. She stopped working for Monsanto before we were married.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

As Secretary of the Louisiana Department of Health and Hospitals and President of the University of Louisiana System, I worked with the Louisiana Legislature on various initiatives. My interaction with the Federal government involved my activities as Secretary, working with our Congressional delegation to provide information on our state's Medicaid program.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

Actions taken are described in letter referenced in question below. No trusts have been created.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

DHHS informs me this has been done.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

#### **D. LEGAL AND OTHER MATTERS**

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

As Secretary of the Department of Health and Hospitals and President of the University of Louisiana System, I was named in my capacity as agency head in civil proceedings. These proceedings involved the agency's activities, not my



personal role; I was not personally liable, and was usually not even aware of such legal activities. I was thus listed in a ministerial capacity. I once submitted an affidavit, at the request of the Governor's office, noting that I had no prior knowledge concerning a lawsuit filed by the Louisiana Attorney General's office against various tobacco companies.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None

#### **E. TESTIFYING BEFORE CONGRESS**

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes

#### **RESPONSES TO QUESTIONS FROM SENATOR JEFFORDS**

**Question 1:** As part of his "New Freedom Initiative," President Bush has proposed a national blue ribbon commission on mental illness treatment services. In 2000, Senators Domenici and Kennedy introduced legislation to establish a similar commission (S 2639). What role do you anticipate in the work of this Commission for the Office of Assistant Secretary for Policy, Planning and Evaluation? Would you favor this Commission examining gaps in state public mental health systems, as well as looking at the role state standards have played in impeding access to treatment for adults with severe and persistent mental illness?

**Answer:** Among his first activities, President Bush announced his New Freedom Initiative in which he committed to tearing down the remaining barriers to equality facing Americans with disabilities, including women and men with mental disorders. The Administration proposed the establishment of a National Commission on Mental Health. It is likely that the Department of Health and Human Services will play a lead role with the Commission.

Although the President and his staff are still developing details of the Commission, the landmark 1999 Surgeon General's Report on Mental Health will provide the foundation for much of the Commission's work. In particular, the Report outlined eight courses of action to improve mental health, and these courses of action represent key areas that will be further explored by the Commission. Since the Department is the major funder of both mental health research and mental health services in the United States, the Office of the Assistant Secretary for Policy, Planning and Evaluation would assess any proposals made by the Commission concerning Department activities in light of the broader array of the Department's mental health research initiatives and mental health financing and service delivery activities. In addition, the Office of the Assistant Secretary would draw upon state-of-the-art assessment techniques employed by public health analysts to evaluate the effectiveness of any reform proposals. The Office of the Assistant Secretary would assist the Commission in evaluations of the nature and extent of any perceived defi-

ciencies in state mental health services, including evaluations of the role of state standards, and of any remedies for these deficiencies as applicable.

When established, the Commission will examine a number of areas in the mental health service system including gaps in service, standards of care and involuntary treatment. It will also review the interaction between the criminal justice system and the mental health system and the cooperation and coordination of services among social services agencies, to name a few.

**Question 2:** The Center for Mental Health Services (CMHS) at SAMHSA is supposed to serve as a leader in assisting state and local public health agencies in translating services research into establishment of best practices and replication of evidence-based programs serving children and adults with severe mental illnesses. In recent years however, CMHS has drifted toward a more unfocused, amorphous mission of mental health promotion, prevention and capacity building in "non-mental health settings." What efforts do you plan to undertake as Assistant Secretary for Policy, Planning and Evaluation to reform CMHS to reestablish the agency as a leader in assisting state public mental health systems in replicating evidence-based programs serving children and adults with the most severe and disabling mental illnesses (particularly the most vulnerable and disenfranchised populations such as the homeless and non-violent offenders in the criminal justice system)?

**Answer:** SAMHSA, and its Centers, remains the newest of the Operating Divisions of the Department, having begun to function in October 1992, with a mission to ensure affordable, available and effective community-based mental health services in the United States for people with or at-risk for mental illnesses. While the Secretary has and will continue to review the mission and effectiveness of all the agencies in the Department, whether there will be any changes in the Center of Mental Health Services (CMHS) has not been discussed. The Office of the Assistant Secretary for Planning and Evaluation will advise the Secretary as he examines options to organize the Department to improve efficiency of all offices. We will continue to focus on the important role of evidence-based research in evaluation and policy and program development.

There is work to do in improving the performance of many parts of our agency, and the Secretary is committed to that improvement. In the area of mental health services, the Assistant Secretary would assist SAMHSA in developing the strategies to determine if the States are using techniques to provide mental health services that are grounded in the sound evidence of efficacy and scientific reliability. The Office of the Assistant Secretary for Planning and Evaluation would look forward to working with the Senator and others committed to mental health on these important issues.

#### RESPONSES TO QUESTIONS FROM SENATOR BAUCUS

##### **Question 1: Need for a Bipartisan Medicare Reform Bill**

I commend you and Senator Breaux for your leadership on Medicare reform. The Medicare Commission made important steps toward Medicare reform. But the Commission's plan failed to achieve the so-called "super-majority" number of votes necessary to formally present the recommendations to Congress.

In an evenly divided Senate, a Medicare reform plan that clears the Finance Committee will have to have a super-majority of votes. We need to have a bill that achieves broad bipartisan support. What policies do you support to reform the Medicare program? From your experience serving on the Medicare Commission, what advice do you have for the Committee to develop a Medicare reform bill that achieves a "super-majority" of votes in the Senate?

**Answer:** The first consideration for any Medicare reform bill must be what is best for the Medicare beneficiary. As the President and Secretary have stated, the National Bipartisan Commission on the Future of Medicare provided a solid framework for comprehensive reform and improving the program for beneficiaries. The Administration is committed to including prescription drug coverage in the context of comprehensive Medicare reform. Expanding choices of health plans, including prescription drug coverage, and improving The Centers for Medicare and Medicaid Services (CMS) management are bipartisan reforms that should achieve a "super-majority" of votes in the Senate.

##### **Question 2: Breaux-Frist I vs. Breaux-Frist II**

I'm sure you are well aware of the concerns that many of us have about the impact that a "premium support" plan would have in rural areas, which cannot support a stable managed care market. Premiums for the traditional fee-for-service program may skyrocket in these areas, without any viable private plan alternatives.

The Breaux-Frist II bill addresses this concern. The bill would inject more market competition in the Medicare program, while holding the fee-for-service program harmless.

Given the current instability of the Medicare+Choice program and given the potential impact on rural areas, are we ready for the more far-sweeping reforms envisioned by the Bipartisan Medicare Reform Commission? Or, do you recommend that Congress move more cautiously by starting with the Breaux-Frist II legislation?

*Answer:* Stability in the Medicare+Choice program is essential to ensuring that choices are available for beneficiaries in rural areas. The first step is reform of the payment formula for Medicare+Choice plans. Whether this reform is Breaux-Frist I, II, or another mechanism, payments must be sufficient for viable, affordable health plans to be offered to Medicare beneficiaries.

### **Question 3: Medicare's Special Payments and Subsidies**

The Medicare Commission recommended that Congress should further examine Medicare's role in supporting graduate medical education and rural providers. The paper suggested that these programs may be more appropriately funded outside of the Medicare trust fund. In my view, it would be a mistake to weaken the financing of these programs, as they have preserved access to health care services for rural Montana beneficiaries, and they have produced the world's best physician workforce.

Do you believe that graduate medical education and Medicare's rural hospital programs should be funded outside of the Medicare trust fund? Do you believe that the Medicare program has a role to provide explicit funding for graduate medical education programs and rural hospital programs?

*Answer:* Medicare's special payments and subsidies to rural hospitals and other providers have served an important role in preserving access to health care services. Any Medicare reform must ensure continued access to high quality health care for Medicare beneficiaries in rural areas. While Congress and the Administration must determine whether add-on payments to hospital DRG payments is the most efficient and effective mechanism to cover Medicare's costs, the focus of reform must be maintaining and improving health care services for Medicare beneficiaries.

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## **RESPONSES TO QUESTIONS FROM SENATOR ROCKEFELLER**

*Question 1:* As Executive Director of the Bipartisan Medicare Commission, you oversaw the development of a reform proposal that was estimated at the time to increase premiums for the traditional Medicare program by 18 to 30 percent. For many seniors living on a fixed income, this increase in premiums would have been unsustainable. Now that you are no longer a staff person but rather a policy maker, what is your personal position on this proposal?

*Answer:* As the Medicare program is structured today, beneficiaries on fixed incomes face premium increases tied to growth in Part B spending. The Congressional Budget Office (CBO) projects a 10.5 percent growth rate for 2001. The best hope for those from your state and across America is to reform the program while continuing the federal government's assistance for the truly needy.

The Chairmen were concerned that beneficiary premiums would increase under current law. Whereas CBO predicted the government-run fee-for-service plan would largely determine the national average premium, and thus government payments on behalf of beneficiaries, for several years, Jeff Lemieux, who worked on the Commission staff, estimated that premiums in the government-run plan would actually decline by 17% over 10 years compared to current law estimates. The proposal envisioned the government-run plan being allowed to reduce its costs and premiums to remain competitive, including, if necessary, operating like private plans via contracts with providers negotiated on the basis of price and performance. Beneficiaries choosing a more expensive plan in a particular geographic area would pay higher premiums to the extent that other beneficiaries chose to enroll in plans offering the same benefits at a lower cost. The proposal called for risk and geographic adjustments to help ensure differences in premiums reflected differences in efficiency.

The second version of legislation sponsored by Senators Breaux and Frist continued premium protection for Medicare beneficiaries in the government-run fee-for-service plan across the entire country (see #3 below).

*Question 2:* Secretary Thompson often talks about the need for program reforms that address the financial burdens Medicare will be facing with the retirement of the baby-boom generation. What is the Administration's proposal to address this financial burden?

*Answer:* The President has proposed Immediate Helping Hand, a proposal designed to offer immediate access to prescription drugs to those Medicare bene-



ficiaries most likely to lack access today. Both the President and Secretary Thompson have indicated that the Administration would be willing to commit additional resources in the context of overall Medicare reform, and have indicated that the Commission's work was a good starting point for discussing a comprehensive reform package. As of today, the Administration has not endorsed a particular form of Medicare reform.

*Question 3:* The proposal put forward by the Medicare Commission also increased cost-sharing for rural beneficiaries, forcing them to pay differential amounts for the same benefit. In my state of West Virginia, 60% of the beneficiaries are rural and the average income is \$10,800. How do you explain to my beneficiaries that their costs for traditional Medicare would go up, and this doesn't even include a prescription drug benefit?

*Answer:* The Chairmen's proposal included a provision protecting beneficiaries living in areas without private plans. Their premiums would be set at the lower of either 12 percent of the government-run fee-for-service plan or the national weighted average. Indeed, to the extent the proposal allowed the government-run fee-for-service plan to lower its costs compared to current law, beneficiaries would actually pay lower premiums. The second version of legislation sponsored by Senators Breaux and Frist continued this premium protection for Medicare beneficiaries in the government-run fee-for-service plan across the entire country. As of today, the Administration has not endorsed any changes in cost-sharing.

*Question 4:* The Commission proposal also included a prescription drug benefit that was limited to beneficiaries with incomes below 135 percent of poverty. This type of proposal has significant problems:

- This type of benefit completely excludes the middle-class. In West Virginia, 63% of beneficiaries would not be eligible.
- Experience with Medicare premium assistance programs shows that only about half of people eligible for Medicaid-run benefits enroll to receive these benefits.
- States have historically taken an extensive amount of time implementing these types of program. Texas didn't even submit a plan for their full CHIP program until the spring of 1998 and Louisiana was the 43rd state to submit their plan.

Considering these points, do you really think this is the most effective way to provide Medicare beneficiaries with a prescription drug benefit?

*Answer:* The Chairmen's proposal offered federal funding for prescription drug coverage for beneficiaries earning up to 135% of poverty, providing coverage, estimated at the time, to 3 million additional low-income beneficiaries. The President's Immediate Helping Hand proposal offers federal funding, on a sliding scale basis, for prescription drug coverage for beneficiaries earning up to 175% of poverty, as well as catastrophic prescription drug coverage for all other beneficiaries. The President's proposal gives states flexibility, while repairing accountability—a general approach favored by Secretary Thompson. States would be required to get approval from the Secretary, who would be required to submit an annual report to Congress. Both the President and the Secretary have communicated a willingness to consider alternative delivery mechanisms in the context of overall Medicare reform.

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#### PREPARED STATEMENT OF THOMAS SCULLY

Chairman Grassley, Senator Baucus and other distinguished Committee Members, it is an honor to appear before you today as President Bush's nominee to be the Administrator of the Health Care Financing Administration (HCFA) at the Department of Health and Human Services. HCFA has the largest budget of any federal agency or Department. And running Medicare, Medicaid, and the State Children's Health Insurance Program effectively, is one of the central functions of the federal government—delivering health care services to more than 70 million seniors, the disabled, and other needy citizens. I am proud the President decided that I was best suited for this duty, and should you concur, I assure you that I will not let you down.

HCFA is not the most popular agency in the government, nor should it be. With a budget of almost \$400 billion, you have to say "no" to a lot of people, including an occasional Senator or Representative, if you want to keep the annual rate of health inflation under control. When I was last in the government, Medicare and Medicaid were both growing at annual rates of almost 15 percent a year, which was—and still is—unsustainable. The economy cannot stomach a return to those days nor, I suspect, can Congress. So, by design, HCFA—which means me—will probably again fail to win public popularity awards during my tenure. However, we can and we *will* do far better in working with Congress, beneficiaries, and the physi-



cians, providers, and insurers who serve as HCFA's partners in delivering care and providing coverage. That is my commitment to you as Administrator.

One of my top priorities will be greatly enhanced education for beneficiaries, physicians, and providers. I hope to expand our educational efforts to seniors on a number of fronts to further improve their understanding of their options and opportunities under the Medicare program. I will also push the agency to be far more aggressive in its work with physicians, nurses, hospitals, nursing homes, home health agencies, dialysis facilities, and every other provider partners to *explain* what we are doing in our regulatory efforts. Likewise, I will quickly push to develop a more direct and accountable relationship between HCFA's Medicaid staff and the States they partner with in the Medicaid program. As I mentioned, I do not expect everyone to always like our decisions, but everyone has a right to expect clear, prompt, and thoughtful answers from HCFA.

I have worked with HCFA throughout my career in the Office of Management and Budget (OMB), on the White House staff, and in the private sector. I believe that HCFA is stocked with an exceptionally smart and talented staff. In fact, my regulatory experience with HCFA over the last 15 years has generally been good. However, I have some understanding of the maze that is the HCFA process. This is a skill most taxpayers, seniors, doctors, nurses, and other providers—not to mention Governors and Members of Congress—do not have, and probably do not want to have. My first goal is to fix this process, to untangle the web, and to clarify the regulatory mystery that HCFA has become to many of its constituents.

My other primary interest in taking on this job is legislative and I look forward to working with Congress on reforming Medicare. In my most recent years in government service, during the "first" Bush Administration, I worked on a number of very successful bipartisan legislative projects—most involving the Senate Finance Committee. From physician payment reform in 1989 to child care and the Earned Income Tax Credit (EITC) restructuring in 1990 to Medicaid Disproportionate Share Hospital (DSH) reform and hospital capital reform in 1991 and 1992, a number of significant and important programmatic improvements were made. Enough improvements to make me believe that you really can make a difference in public service.

On the other hand, working for the last 15 years on health care issues, both inside and outside of government, has occasionally made me feel like I am watching the movie "Groundhog Day." Every day I get up and the issues are the same as they were a decade ago. For example, I spent the first half of 1989 trying to "save" the Medicare Catastrophic Coverage Act, which was primarily a Medicare prescription drug and catastrophic benefit. Today, twelve years later, we are only now beginning to refocus on that issue. Medicare reform, as well as Medicaid DSH, and upper payment limit reforms were enormous issues in 1991 and 1992. Little has changed today and, arguably, the situation may be even worse. In addition, we still have over 40 million uninsured, with little national consensus about how we should address the problem.

Clearly, there is a tremendous amount of work to do for anyone, in either party, with a strong interest in fixing health care in America—both at HCFA and in our nation's health insurance and delivery mechanisms. I enjoy public service, and I am determined to make a difference. I have tremendous respect for the Finance Committee and I have been fortunate enough to make good friends on both sides of the aisle during my many years in Washington. If confirmed, I sincerely hope to work with each of you on this Committee and with the Congress over the next four years to make HCFA work better, but more importantly, to significantly improve our health care system.

Again, thank you for your consideration of my nomination, and for the honor of appearing before you today.

**SENATE FINANCE COMMITTEE  
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

**A. BIOGRAPHICAL INFORMATION**

1. Name: (Include any former names used.)  
**Thomas Andrew Scully**
2. Position to which nominated:  
**Administrator, Health Care Financing Administration**
3. Date of nomination:  
**Nominated May 1, 2001**
4. Address: (List current residence, office, and mailing addresses.)  
**2915 King Street  
Alexandria, VA 22302**  
  
**Federation of American Hospitals  
801 Pennsylvania Avenue, NW  
Suite 245  
Washington, DC 20004**
5. Date and place of birth:  
**10/24/57 Philadelphia, PA; Lankenau Hospital**
6. Marital status: (Include maiden name of wife or husband's name.)  
**Married: Ann Hoffmann Scully 8/10/85**
7. Names and ages of children:  
**Sarah 12  
Julia 9  
Alexa 3**

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)  
**Archmere Academy, Claymont DE 1975**  
**University of Virginia, BA 1979**  
**Catholic University, JD 1986**

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

**1979-81 Federal Election Commission, Reports Analyst**  
**1981-85 Senator Slade Gorton (R-WA) Office Manager and Legislative Assistant**  
**1985-86 Communication Satellite Corporation, Wash, DC , Legislative Affairs**  
**1986-89 Akin, Gump, Strauss, Hauer and Feld, Associate Attorney**  
**1988 Bush-Quayle 2000 Communications staff. Leave of Absence from law firm**  
**1989 Office of Management and Budget, Associate Director, Leg. Affairs**  
**1989-92 OMB, Associate Director for Human Resources, Veterans and Labor**  
**1992-93 White House/OMB Deputy Assistant to the President for Domestic Policy and Counselor to the OMB Director**  
**1993-1995 Patton Boggs, Partner**  
**1995-Present President and CEO, Federation of American Hospitals**

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)  
**Member, Advisory Board, George Bush Library, Texas A&M, College Station Texas**  
**Member, Advisory Group, Commission on Reform of DOD and VA Health Care (2000- Chair, the Honorable Anthony Principi)**
11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)  
**Board Member, Oxford Health Plans (1993-Present)**  
**Board Member, DaVita Healthcare (2000-Present)**  
**Board Member, MidAtlantic Region, American Heart Association (2000-Present)**
12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Pennsylvania Bar Assoc (inactive)  
 DC Bar Association  
 National Health Lawyers Assoc.

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.  
**N/A**
- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.  
**Officer, Federation of American Hospitals PAC**
- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

**SEE ATTACHMENT FROM FEC**

**Other contributions not on FEC record: Rep Rob Portman (various under \$200); Rep. Jim Greenwood (various under \$200); Bush Recount Committee \$2,000; Bush GELAC Committee (\$1,000 Tom and \$1,000 Ann).**

- 14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)  
**Catholic University Law Review, Associate Editor 1985-86**  
**American Jurisprudence Award, 1985**
- 15. Published writings: (see attachments)
- 16. List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)  
**NCAA v. Board Of Regents Of The University Of Oklahoma: the NCAA's Television Plan is Sacked by the Sherman Act, 34 Catholic Law Review, (1985) (attached)**  
**Multiple Articles from Health Systems Review (attached), and Hospital Outlook (attached)**
- 17. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)



I have given dozens of speeches on these topics in formal settings—rarely with more than scribbled notes. Occasionally I have used powerpoint presentations, and I have attached those that I could find.

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

My experience at OMB and the White House in the prior Bush Administration, mostly in the health area, provided a great background. Also, my extensive health law practice, and 6 years at the Federation of American Hospitals, have provided me with a fairly detailed knowledge of HCFA and its issues.

#### **B. FUTURE EMPLOYMENT RELATIONSHIPS**

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.  
**Yes, though I was told by ethics officials I could remain on the Advisory Board of the Bush Library.**
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.  
**No.**
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.  
**No.**
3. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.  
**Yes.**

#### **C. POTENTIAL CONFLICTS OF INTEREST**

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Numerous health stocks that are listed in my ethics filing. All will be sold as soon as is practicable, but in all cases, no longer than 90 days after

confirmation, as detailed in the ethics filing.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

**None, other than those discussed below at the Federation, Oxford and DaVita that are covered by recusals.**

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

**Numerous activities for the Federation of American Hospitals, including: advocating multiple provisions in the Reconciliation bills of 1995, and 1997 that impact hospitals. Also multiple provisions in the Medicare bills of 1999 and 2000 that restored program funding. Additionally, legislative activity in each annual Labor/HHS Appropriation bill, as well as in the Patient Protection Act and HIPPA.**

**At Patton Boggs, much of my law practice was also devoted to health and issues involving the Clinton Administration's health reform proposals. Clients included: Wellpoint Health, American Medical Security, Blue Cross/Blue Shield, Mass Mutual, New York Life, The Travelers, Federation of American Hospitals, SEIU, Ford Motor Company, American College of Gastroenterology, and the National Association of Health Underwriters and the National Association of Life Underwriters. All were engaged in issues involving Congress and HCFA.**

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

**I do not believe there are any. I am recused from working with the Federation of American Hospitals, Oxford Health plans and DaVita Healthcare from one year under the ethics agreement that has been filed.**

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts

of interest or any legal impediments to your serving in this position.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

#### **D. LEGAL AND OTHER MATTERS**

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

**No.**

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

**Yes. For a DUI charge in December 1997 that was subsequently dropped and expunged from the record in the District of Columbia.**

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

**Yes, as a Director I am currently a defendant in multiple civil proceedings against Oxford Health Plans that are pending for consolidation in the Southern District of New York. I am not named personally as a defendant in any of the suits.**

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

**See #2 above**

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your

nomination.

None.

## **E. TESTIFYING BEFORE CONGRESS**

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?  
**Yes.**
2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?  
**Yes.**

### **RESPONSES TO QUESTIONS FROM SENATOR GRASSLEY**

#### **Nursing Homes**

Mr. Scully, as you know from our previous discussions, I have a strong interest in the quality of care being delivered to our nation's nursing home residents. In 1998, I began to oversee the implementation of the previous Administration's nursing home initiative aimed at improving quality of care in nursing homes that was prompted by government reports about severely inadequate quality of care in California. Subsequent reports identified further weaknesses in the federal government's monitoring of quality of care in federally certified homes.

I have discussed my intentions to continue oversight of nursing home quality with Secretary Thompson. And just last week, I received a letter from the Secretary acknowledging the positive changes resulting from these oversight activities. Since nursing home quality, as well as an in-depth study on nursing home staffing, are the responsibility of HCFA, I hope that you will commit to making improvements in nursing home quality of care a priority of your administration.

In regard to the staffing study I mentioned, I understand from Secretary Thompson that every effort is being made to complete and deliver the final phase of the study to Congress by quickly as possible. After extensive examination of the problems in nursing homes, staffing has been identified as one of the central issues so there is tremendous interest in the HCFA staffing study. HCFA had previously agreed to a completion date of September 18 of this year.

*Question:* Can you tell me whether this date will be met? Additionally, I look forward to continuing to receive status reports from HCFA regarding its activities related to the nursing home initiative. Secretary Thompson and I agreed to twice-yearly reports, and of course I hope that you also concur with this reporting schedule.

*Answer:* I appreciate the support and leadership you continue to provide and believe that your leadership has been instrumental in bringing about positive changes in the care provided in nursing homes. Please be assured that I am committed to improving the well being of the nation's nursing home residents.

Regarding the Committee's interest in discussing issues related to the nurse staffing study, I will have HCFA staff continue to meet with your staff to address their concerns. I understand that the additional analysis of the staffing study will expand the number of States and providers, resulting in a larger and more representative sample to test the relationship between staffing and outcomes, as well as to help identify approaches for classifying facilities into case-mix categories. These study expansions will result in a short delay in providing the report to you and I now expect to review and submit this report and my recommendations to you by the end of the year. I plan to make nursing home reform a top priority of my HCFA tenure.

#### **Medicare+Choice**

There is only one Medicare+Choice plan in Iowa, operating in only one county. They have testified before this Committee and have spoken to me at length about onerous regulatory burdens that make it especially hard to provide care and participate in the Medicare+Choice program. In addition, I've heard from plans repeatedly that management of the Medicare+Choice program itself is difficult to work with, inconsistent, and often unclear.

*Question:* Mr. Scully, what are some of the things you believe HCFA should be doing to encourage plans to not only enter but also blossom in areas where the in-



frastructure exists for real managed competition? Can you tell us about what some of your proposals to ease the regulatory burdens in the Medicare+Choice program might include? In addition, what are some of the management changes you think might make operation of the program more rational and make Medicare a better business partner for plans?

*Answer:* I intend to do everything I can to create a better business relationship with M+C plans and to stabilize the program. We took some steps in this direction last week in delaying ACR filings to avoid further dropouts. I plan to take immediate steps to strengthen the organization of the M+C program within HCFA and hope to be able to announce some organizational changes and improved flexibility for plans very soon. I look forward to working with you, and other members of Congress, on more specific proposals for easing regulatory burden currently facing plans.

We are also discussing some demos with hybrid M+C plans in rural areas like Iowa, and I look forward to discussing these with you.

Eventually, I think we need to consider longer-term structural changes to improve the management of both traditional Medicare and the M+C program. I will be working with the Secretary to develop a longer term proposal in this area.

#### RESPONSES TO QUESTIONS FROM SENATOR GRAHAM

##### **HCFA Restructuring**

One favorite activity these days seems to be "HCFA bashing". Some have taken that to the level of introducing legislation that would radically change HCFA's responsibilities. Proponents often argue that a restructuring is necessary because there is a "conflict of interest"—that the same entity can't administer the fee-for-service program and the Medicare+Choice program. While the M+C plans have their grievances, I have been told that they do not perceive a "conflict of interest". I believe the greatest problems faced by HCFA are the lack of authority to implement the types of competitive measures routinely used by the private sector to manage fee-for-service programs, and an administrative budget that stifles the ability of HCFA to meet all of its pressing needs in a timely fashion.

*Question:* What are your thoughts in this arena? Do you favor removing certain functions—such as administration of the M+C program—from HCFA? Do you believe HCFA could oversee a prescription drug benefit?

*Answer:* I intend to do everything I can to create a better business relationship with M+C plans and to stabilize the program. I plan to take immediate steps to strengthen the organization of the M+C program within HCFA and hope to be able to announce some organizational changes and improved flexibility for plans very soon. Eventually, I think we need to consider longer term structural changes to improve the management of both traditional Medicare and the M+C program. I will be working with the Secretary to develop a longer term proposal in this area.

##### **Possible Medicaid/CHIP Question**

Following the passage of the 1996 welfare reform enrollment in "regular" Medicaid has been fluctuating.

The U.S. General Accounting Office reported that about 1.7 million adults and children lost Medicaid between 1995 and 1997. In a 1999 study of CHIP and Medicaid, Families USA found that children's enrollment in Medicaid dropped by almost one million (8.9 percent) between 1996 and 1999 in the 12 states with the largest number of uninsured children.

Since the criteria for Medicaid eligibility has changed little and incomes of former welfare recipients have barely risen, most of them remain eligible.

*Question:* What do you propose to do as HCFA Administrator to make sure that every Medicaid-eligible child and parent actually receives the benefits to which he or she is entitled?

*Answer:* I share your concern that every eligible child and parent receive the Medicaid benefits to which they are entitled. I will encourage the States to conduct outreach to these eligible beneficiaries. We will aggressively push States to promote and educate beneficiaries about both Medicaid and S-CHIP options.

#### RESPONSES TO QUESTIONS FROM SENATOR JEFFORDS

As part of his "New Freedom Initiative" for people with disabilities, President Bush promised full and swift implementation of the Ticket to Work and Work Incentives Improvement Act (P.L. 106-170). As you may know, I was the original Senate sponsor of this legislation. Since TWWIIA was enacted in 1999, a number of States have enacted new Medicaid buy-in programs that allow people with severe disabilities to work without the threat of losing their health care coverage. A number of

other States, including Vermont, are awaiting HCFA approval of their buy-in programs, or are close to submitting them for approval.

*Question:* Can you please update the Committee on States that have been approved by Medicaid buy-in programs and the status of states that have applications pending? What steps do you feel are needed to encourage more States to push ahead with these buy-in programs? What can HCFA do to make this process easier for States?

*Answer:* Fourteen States have approved buy-in programs. They are: Alaska, Arkansas, California, Connecticut, Iowa, Nebraska, New Jersey, Maine, Minnesota, Mississippi, New Mexico, Oregon, South Carolina, Wisconsin.

Vermont is the only State that currently has a buy-in application pending in HCFA. HCFA is reviewing responses from the State, and their application is in the final stages of review.

HCFA is in the process of revamping the State Plan Amendment approval process to be as responsive to States' needs as possible. Any improvement that are made to the overall process will be applied to State Plan Amendments for buy-in groups under TWWIIA as well.

Additionally, HCFA has asked States to disseminate buy-in information under the Ticket to Work grants. HCFA has asked States to assist one another in developing Medicaid buy-ins and other return to work efforts. To meet this objective, States and HCFA have partnered to establish two technical assistance centers. The centers are conducting regional workshops and providing one-on-one technical assistance to help States address their individual needs as they develop buy-in programs for working people with disabilities.

HCFA will continue working with our Federal partners (especially the Social Security Administration, the Department of Housing and Urban Development and the President's Task Force on Employment of Adults with Disabilities) to coordinate activities in a manner which better serves individuals with disabilities by fully understanding the consequences that changes in benefit status in the respective programs have on each other.

Lastly, HCFA is engaging States to identify additional things that could be done to encourage Medicaid buy-in programs for workers with a disability.

I will work with States to identify additional steps that could be taken when this process is done.

#### RESPONSES TO QUESTIONS FROM SENATOR THOMPSON

As you are aware, Congress established a transitional pass-through payment mechanism for the hospital outpatient prospective payment system to ensure that Medicare beneficiaries have access to the latest medical technologies, such as the new cancer treatment brachytherapy, while HCFA collects the data necessary to ensure the appropriate reimbursement for these new technologies.

*Question:* As HCFA administrator, what will you do to expedite the Medicare coverage process to ensure that beneficiaries have access to new technologies in a timely manner? In addition, what will you do to ensure that the Medicare payment system appropriately reflects advancements in, or new generations of, technologies that are already covered by Medicare?

*Answer:* I was involved extensively in technology issues in my previous position with the Federation of American Hospitals. As Administrator, I will work to ensure that all of our payment systems are as responsive as possible to changes in technology. I agree that prospective payment systems (PPS), such as the outpatient system, should not be a barrier to the introduction of new technology. Appropriate adjustments should be made in our payment systems as quickly as possible to reflect developing technology and I will work to improve that process. However, I am very concerned that the outpatient pass-through system is not functioning as intended, and I would welcome your input as we work to improve the system.

#### RESPONSES TO QUESTIONS FROM SENATOR KYL

Mr. Scully, as you know, there are a number of Native Americans and IHS facilities in my state of Arizona. I'm sure you are aware that my state is currently in dispute with HCFA over the proper reimbursement that the federal government should pay Arizona—and other states—for the costs of services provided by non-IHS providers when Medicaid-eligible Native Americans are referred to these providers by the Indian Health Service (IHS). The dispute arises because of an interpretation over the meaning of Section 1905 of the Social Security Act. This appeal is currently before the Board of Appeals of the Department of Health and Human Services.



My State is obviously very interested in this issue. It is my understanding that the States of Alaska, North Dakota, and South Dakota are also extremely interested in this question. Medicaid is a joint federal-state program.

However, the federal government has legally accepted special responsibilities with respect to the provision of health care services to Native Americans. I am interested to know of your views of this unique trust relationship as it relates to the provision of health care.

*Question:* Are you familiar with the provisions of Section 1905 as they relate to 100 percent federal compensation to the states for services rendered to Medicaid-eligible Native Americans? If so, what is your view as to the meaning of the statutory phrase "services which are received through an Indian Health Service facility?" Will you advise me of your views at the earliest possible date? Will you work with us to resolve this critical issue?

*Answer:* As we discussed in your office, I am aware that Arizona is interested in interpreting the phrase "services which are received through an Indian Health Service facility" more broadly than HCFA has historically done and that the State has an appeal pending before the Departmental Appeal Board on this issue. HCFA has interpreted "through" an IHS facility to mean services "in" such a facility, consistent with what HCFA has believed was Congressional intent at the time of enactment. I understand the financial and other reasons why Arizona and other States with significant numbers of Indian Medicaid beneficiaries would prefer a more expansive interpretation of "through," so 100 percent Federal funding also would apply to services by non-Indian providers if an Indian health program referred the Indian Medicaid beneficiary.

The Federal government's trust responsibility for Indian people encompasses duties both for direct Federal services and funding as well as for protection of Indian people's rights as U.S. and State citizens. It is important to carefully consider how to achieve the proper balance between these two types of duties in the health care context and we are looking into these matters. Re-authorization of the Indian Health Care Improvement Act may provide an opportunity to discuss these and many related questions. I look forward to working with you on this issue, as well as many of the physician issues we discussed.

#### RESPONSES TO QUESTIONS FROM SENATOR BREAUX

##### **Transitional Medical Assistance (TMA), Medicaid**

*Question:* What are your thoughts on how to ensure that eligible families making the transition from welfare to work remain eligible for Medicaid, as provided for in the 1996 Welfare Reform law? What are your thoughts on how to improve the TMA Program?

*Answer:* Supporting families moving from dependency to self-sufficiency through work is an important component of welfare reform. Few families making this transition go into jobs that offer health insurance and without Medicaid these families may go without coverage. I believe that to continue the success of welfare reform, we must continue our support of families as they move to self-sufficiency. TMA authority, as part of welfare reform, is now set to expire September 30, 2002. I believe it should be addressed in the broad discussion of welfare reform and I look forward to working with you on this.

Mr. Scully, I understand that HCFA has recently been interpreting the Medicare definition of drugs and biologicals in a narrow way, potentially limiting coverage outside of the hospital setting to products listed in the USP/NF, a compendium of drugs that does not include all FDA-approved therapies. I am concerned that this narrow reading of the statute could deny Medicare beneficiaries access to new treatments that would have been covered as recently as last year. I believe that HCFA has authority to consider USP-DI as a successor to publications listed in the statute. USP-DI lists all FDA-approved drugs and is updated frequently to reflect newly approved therapies.

*Question:* Will you clarify HCFA's position on whether it intends to return to its previous policy, under which all FDA-approved drugs and biologicals were covered, if they met HCFA's other criteria?

*Answer:* It is my understanding that the statute provides coverage based on a listing of various compendia that were available when the Medicare statute was enacted. This list has steadily atrophied during the 35 years that this provision (1861(t)) of the statute has been in force. There have been occasions in the past when it has been necessary, due to consolidations of listed publications for example, for HCFA to recognize a successor publication to a compendium named in the statute. Now that I am confirmed, I will work to quickly determine whether the USP-DI should be recognized as such a successor compendium.

## RESPONSES TO QUESTIONS FROM SENATOR TORRICELLI

**Prospective Medicare DSH Payments for New Jersey Hospitals**

New Jersey is one of only a few states to guarantee that any person can go to a hospital and receive immediate treatment, regardless of their ability to pay. As a result, New Jersey's struggling hospitals spend \$200 million every year treating poor patients without reimbursement. That figure would be much higher if it weren't for New Jersey's Charity Care Program, which is a part of New Jersey's Medicaid State Plan, and Medicare DSH payments that help cover some of the costs. Still, these programs fall short of the true costs of providing services to the poor.

A major part of the problem is that Medicare DSH payments do not count charity care days that New Jersey hospitals serve each year as is done for our neighbors in New York.

In 1999, HCFA ruled that the Medicare DSH policy was substantially unclear about the inclusion of state indigent care programs, like the one in New Jersey, and agreed to pay these payments on a retrospective basis. This decision resulted in payments totaling more than \$200 million for New Jersey hospitals. But HCFA permanently changed the policy to prevent New Jersey hospitals from submitting charity care days for calculation of Medicare DSH payments while allowing them to continue for eight other states including New York.

*Question:* What steps should New Jersey hospitals take to ensure that charity care days are included in their Medicare DSH payments? Secretary Thompson indicated a strong willingness to assist with this important issue. Can I also receive an assurance that you and your staff will begin an immediate dialogue with myself and the New Jersey hospital industry to develop a solution to this inequity?

*Answer:* As you know, funds from Medicare DSH are allocated to hospitals based on a statutory formula. Currently, charity care days are not included in the statutory formula. A legislative change would be needed to include these days in the Medicare DSH formula. As we discussed off the Senate floor a few weeks ago, I assure you that I am committed to investigating this issue in greater detail with you and your staff.

**Providing Early Medicaid Treatment to Low-Income, HIV Patients**

New Jersey ranks third in the nation for HIV infection and nowhere has the impact been more devastating than in the State's minority communities. A study done this year by the Centers for Disease Control found that New Jersey's large cities have the largest populations of African Americans and Latinos living with HIV in the country.

It is a tragic irony that many of these patients don't have access to the latest scientific breakthroughs in HIV treatment because of Medicaid's eligibility rules. Under Medicaid rules, low-income HIV-positive Americans cannot receive AIDS-preventing drugs until they develop full-blown AIDS.

I will soon introduce legislation with Representative Pelosi and Gephardt—as I did in the 106th Congress—to change the Medicaid rules so that HIV patients will be assured treatment upon diagnosis. A report by the University of California shows that an estimated 38,000 individuals would enroll in Medicaid if Congress made this change. This would lead to nearly 19,000 fewer AIDS diagnoses and 3,600 fewer deaths, and 8,000 added years of life in only five years.

*Question:* I understand that this proposal has raised concerns about cost, but I would like your thoughts about the argument that up-front costs would be offset by future savings from fewer hospitalizations and other treatment costs?

*Answer:* As you know, I spent a good part of my career at OMB and I am familiar with the scorekeeping issues related to low estimates of future savings resulting from up-front costs in preventative benefits. Despite intuition that preventative benefits save money in the long run, scorekeeping rules and timeframes often do not capture such potential savings.

HCFA estimates that the Medicaid program will serve 116,000 persons living with HIV disease nationwide. Combined Federal and State Medicaid expenditures for serving this population are estimated to be \$4.3 billion in FY 2001. Most adults with HIV disease qualify for coverage because they are disabled and have low income, and limited assets. Others in families with dependent children or pregnant women and their infants may become eligible for Medicaid by meeting certain income and resource standards. Under the traditional rules, persons in the early stages of HIV do not qualify if they are still able to work or if they still possess modest assets accrued during years of work. As you indicate, assistance with drug coverage at this stage may delay the progress of the disease and add years to productive life.



I am very interested in working on innovative ways to get individuals with HIV treatment. In this regard, I would like to work with States to use the 1115 demonstration authority to test ways to provide better coverage to more people with HIV. These demonstrations will evaluate the cost effectiveness of expanding Medicaid eligibility to this group before disability or spend-down of income and assets occur. The States of Maine, Massachusetts, and the District of Columbia have been granted a demonstration waiver to extend Medicaid benefits to non-disabled adults living with HIV disease. Currently, the Department is reviewing Georgia's proposal and is discussing a concept paper California submitted for an HIV demonstration program.

### **Medicaid Failure to Screen Enrolled Children for Lead Poisoning as Required by Federal Law**

Despite efforts over the past twenty years to reduce lead poisoning in the U.S., it continues to be the number one environmental health threat to children, with nearly one million preschoolers affected. This problem is particularly severe among low-income children who are at an eight times higher risk than children from well-to-do families. Low-income children are disproportionately affected by lead poisoning because they frequently live in older housing that contains cracked or chipped lead paint.

If undetected, lead poisoning can cause brain and nervous system damage, behavior and learning problems and possibly death. Lead poisoning is entirely preventable, making its prevalence among children all the more frustrating. Unfortunately, our current system is not adequately protecting children most at risk of lead poisoning. Children enrolled federally funded health care programs such as Medicaid are five times more likely to have elevated blood lead levels. In 1992, Congress mandated that states test every Medicaid recipient under age two for lead poisoning. This mandatory screening, however, is not happening. According to a January 1999 study by the General Accounting Office, two-thirds of children on Medicaid have never been screened for lead. Only 12 state Medicaid agencies have screening rates of at least 10%.

### **Support for Medicaid Reimbursement of Environmental Testing to Determine the Source of a Child's Lead Poisoning**

A 1992 federal law requires the Health Care Financing Administration (HCFA) to reimburse state Medicaid agencies for environmental investigations of a lead-poisoned child's home. In October 1999, HCFA issued a letter to state Medicaid agencies clarifying that this law requires Medicaid to cover all costs associated with an environmental investigation of lead-poisoned child's home, including laboratory analysis of water, paint chip, and soil samples. The Office of Management and Budget, however, believes the law only covers testing paint surfaces within the home of an XRF device. The confusion between the two agencies has resulted in delayed implementation of the 1992 law and failure to fully treat lead-poisoned children.

*Question:* How would you guarantee that State Medicaid agencies comply with the federal law requiring lead screening for Medicaid recipients under age two? Would you maintain HCFA's support for testing environmental samples such as soil, water, and paint chips to determine the cause of a child's lead poisoning? Would you work with OMB to ensure that expenses for the analysis of environmental samples are covered by Medicaid?

*Answer:* I share your concern that lead poisoning is a serious health issue for certain children. GAO studies have indicated that a low percentage of children are screened. As HCFA Administrator, I will work with States to target high-risk children for such screening first. You also asked about my positions on testing and paying for analysis of environmental samples through Medicaid. These are important issues that I need to examine in more detail. In my review, I intend to work with other agencies in the Department such as CDC to address these issues.

### **HCFA Coverage Decisions for New Technology**

A Harvard University report published May 8, 2001 shows that the disability rate in America is declining dramatically—due in large part to advances in technology. Despite the tremendous benefits of new technology, it can take HCFA a year to approve a technology or procedure and fully implement the decision. After making a national coverage decision, HCFA rules require that that decision not be implemented until 180 days after first day of the next calendar quarter. This could amount to a delay of more than nine months.

*Question:* Are there any statutory timeframes that serve as performance standards for timely review process at HCFA, similar to those at FDA? Would HCFA consider adopting the "total quality management" perspective of the FDA and begin

measuring total times from start to finish rather than simply limiting the time it takes for any one person to respond to any one inquiry? Would HCFA consider shortening the 180 days it takes from the first day of next calendar quarter to implement a decision?

*Answer:* In April 1999, HCFA published a Federal Register Notice (FRN) establishing a process for making national coverage decisions. The FRN included a 90-day timeframe for responding to a formal request for a national coverage decision. The FRN also included an implementation deadline for 180 days from the first day of the next calendar quarter after a coverage decision has been issued.

BIPA, passed in December 2000, puts into statute the 90-day timeframe for responding to a coverage request from a beneficiary who needs the item or service in question.

I agree that we need to be concerned about the total amount of time needed to make a coverage decision and implement any necessary coding and payment changes. It is important in evaluating HCFA's performance, however, to keep in mind that the Agency by itself does not control the coding systems used in its payment systems and that there is a limit to the ability of providers and of HCFA's contractors' systems to absorb coding changes.

Coding and payments provisions for the 15 coverage decisions implemented to date that have required coding and payment changes have been completed in an average of 159 days. As Administrator, I will aggressively work to improve HCFA's record in this area and will implement new decisions as quickly as possible. This will be one of my first areas of focus.

#### RESPONSES TO QUESTIONS FROM SENATOR CLELAND

As you are aware, Congress established a transitional pass-through mechanism for the hospital outpatient prospective payment system to ensure that Medicare beneficiaries have continued access to state-of-the-art technologies in hospital outpatient settings. For example, Congress designed the pass-through system to collect data and to provide separate payments for brachytherapy, a leading cancer therapy, and other breakthrough technologies for a period or time to ensure patient access. The temporary two to three year period for the items initially placed in pass-through categories is scheduled to end at the beginning of 2003.

I assume we all agree that the hospital outpatient prospective payment system should not create disincentives that work against the provision of medically necessary, as well as effective, therapies and technologies in hospital outpatient departments. For instance, the trends in clinical care for brachytherapy are likely to continue evolving both during and after the two to three year transitional period (for example, use of new indications and higher dosage seeds).

*Question:* Under your leadership, what will you do administratively to ensure that beneficiaries continue to have access to brachytherapy and other breakthrough technologies after the transitional pass-through period ends? How can HCFA ensure that the prospective payment system will appropriately reflect changes in technology and treatment down the road?

*Answer:* I was involved extensively in technology issues in my previous position with the Federation of American Hospitals. As Administrator, I will work to ensure that all of our payment systems are as responsive as possible to changes in technology. I agree that prospective payment systems (PPS), such as the outpatient system, should not be a barrier to the introduction of new technology. Appropriate adjustments should be made in our payment systems as quickly as possible to reflect developing technology and I will work to improve that process. However, I am very concerned that the outpatient pass-through system is not functioning as intended, and I would welcome your input as we work to improve the system.

#### RESPONSES TO QUESTIONS FROM SENATOR HATCH

*Question:* What do you hope to accomplish as HCFA Administrator?

*Answer:* As we have discussed, I plan to do everything possible to strengthen the Medicare+Choice option for beneficiaries, including launching a public awareness campaign in the fall 2001 and restructuring HCFA to improve the focus on M+C. I will adopt a performance-based relationship with plans and providers, including finding ways to reward higher quality, high performing plans and providers and synchronizing the quality and satisfaction measures HCFA uses with those of the private sector. Improving the quality and oversight of nursing homes is a special focus in this effort. I also will create a culture of responsiveness at HCFA, by expanding its customer service lines, developing a better system of provider training and problem resolution, and responding promptly to inquiries of all kinds.



*Question:* Finally, I would like to discuss Medicare+Choice with you. Medicare+Choice plans are not offered to the Medicare beneficiaries in my home state of Utah. How do we encourage more plans to offer Medicare+Choice coverage to beneficiaries in rural states?

*Answer:* As I indicated above, I am committed to strengthening the Medicare+Choice program. I intend to do everything I can to create a better business relationship with M+C plans and to stabilize the program. I plan to take immediate steps to strengthen the organization of the M+C program within HCFA and hope to be able to announce some organizational changes and improved flexibility for plans very soon. I also hope to work on some creative demos in areas like Utah that will improve M+C options.

As you know, the Benefits and Improvements Act of 2000 increased payments to Medicare+Choice plans for 2001. At this point, it is unclear how this payment increase will affect the availability of plans in rural States and areas. We should have a better idea by September 17, the date by which plans must submit their benefit proposals for the following year. I look forward to working with you, and other members of Congress, on ways to expand the availability of Medicare+Choice options in rural States, and areas like Utah.

Eventually, I think we need to consider longer term structural changes to improve the management of both traditional Medicare and the M+C program. I will be working with the Secretary to develop a longer-term proposal in this area.

Mr. Scully, there have been some concerns raised to me about the rehabilitation assessment tool used to assess the needs of patients in rehabilitation hospitals. Specifically, there are professionals concerned that it inadequately addresses communication, swallowing, and cognition—some problems that occur following a stroke.

*Question:* Would you please review this instrument and talk to professionals and see if there is a way to ensure that these types of disorders are addressed so that adequate payment can be made?

*Answer:* Yes, I will review this instrument and talk to professionals. I think much of this will be addressed in the new rehabilitation regulation.

*Question:* Is it true that after HCFA makes a national coverage decision and covers a technology or procedure, that it takes 180 days from the first day of next calendar quarter to implement the decision? Why can't it be done sooner?

*Answer:* Coding and payments provisions for the 15 coverage decisions implemented to date that have required coding and payment changes have been completed in an average of 159 days. As Administrator, I will improve HCFA's record in this area and will continue to implement new decisions as quickly as possible, but much of the delay relates to the confusion coding changes cause for providers.

*Question:* It can take anywhere from 15 to 27 months for a company to secure a code for their product. Industry has advocated acceptance and issuance of new product and procedure codes on a quarterly basis for both inpatient (ICD-9) and outpatient codes (HCPCS). What are the operational challenges to moving in this direction from both the HCFA and provider perspective?

*Answer:* From the HCFA perspective, the operational barriers to quarterly updates in the coding systems include its antiquated computer systems, the fact that HCFA by itself does not control the various coding systems, and the need to educate providers about coding changes. From the provider perspective, more frequent updates in coding systems would require additional training for billing and coding staff and additional education for physicians and other health care providers about the correct codes.

*Question:* What is the effect of underpaying a technology or procedure to the hospitals? How does that impact Medicare beneficiaries? Does it impact diffusion of the technology or procedure throughout the health care system?

*Answer:* Underpaying for a new technology could create a barrier to beneficiary access to the technology that would hamper the diffusion of the technology. On the other hands, overpaying for new technology could create a bias toward its use. I believe we should strive for payment systems that are incentive-neutral and therefore leave the choice of which technology to use in the hands of those most qualified to make that decision—physicians and other medical professionals.

*Question:* In most sectors of the United States economy, industry leaders have embraced the adoption of technology to increase productivity and efficiency. What steps can we take to enlighten HCFA about the abilities for technology to drive down costs associated with disease and disability, and thus, the financial benefits (as well as improved quality) from patient access to technology through the Medicare Program?

*Answer:* I agree that new technology may reduce costs. For example, while the cost of performing laproscopic gall bladder surgery was greater than the cost of the open and more invasive procedure, this increased cost was offset by an average re-

duction of over 3 days in the length of the hospital stay necessary to do this procedure. When these offsets occur as part of the same payment bundle (in this case the hospital stay), our payment systems can account for them. The more difficult case arises when savings accrue outside of the hospital stay or visit.

*Question:* The FDA review process to determine that a product is "safe and effective," is quite thorough and lengthy. Coverage considerations by HCFA, which focus on whether a FDA approved product is reasonable and necessary, are also time consuming. Sometimes, the HCFA process is longer than the FDA approval process. Why? Are there portions of the HCFA review that are repetitive?

*Answer:* It is generally recognized that most insurers including Medicare consider additional issues beyond FDA approval in making coverage decisions. These additional considerations include whether the new technology falls into a covered benefit category, the technology's effect on patient outcomes in addition to whether it does what its designed to do, and how the technology compares to the standard care. This does not always mean that new trials are required after FDA approval. HCFA and FDA have been working with interested medical technology manufacturers to ensure that as clinical trials are developed they answer questions important both to the FDA approval process and to the Medicare coverage process. As Administrator, I will continue to foster this type of relationship with FDA.

*Question:* Why does it take, even in the best case scenario, a year to review and implement the approval for a new technology? Are there any statutory time frames that serve as performance standards for a more timely review process, similar to those at FDA?

*Answer:* In April 1999, HCFA published a Federal Register Notice (FRN) establishing a process for making national coverage decisions. The FRN included a 90-day timeframe for responding to a formal request for a national coverage decision. The FRN also included an implementation deadline of 180 days from the first day of the next calendar quarter after a coverage decision has been issued.

BIPA, passed in December 2000, puts into statute the 90-day timeframe for responding to a coverage request from a beneficiary who needs the item or service in question.

Under this new coverage process, on average, coverage decisions have been made within 153 days including those decisions that have included formal external consultation through the Medicare Coverage Advisory Committee or a technology assessment. Coding and payments provisions for the 15 coverage decisions implemented to date that have required coding and payment changes have been completed in an average of 159 days. I am committed to improving this performance.

*Question:* How will HCFA, under your leadership, improve the bureaucratic process that delays patient access to Innovative Diagnostic Tests? Does HCFA need help from Congress to implement the recommendations of the Institute of Medicine? Or can this be accomplished administratively?

*Answer:* As Administrator, I will work to ensure timely beneficiary access to new technology, including Innovative Diagnostic Tests. Where there are statutory barriers to reaching this goal, I look forward to working with you and other members of Congress to remove these barriers.

*Question:* If HCFA assigned new technologies to appropriate codes more expeditiously, wouldn't the hospital outpatient departments pass-through payments be less, and wouldn't the pass-through pool be adequate?

*Answer:* Under the statute, pass-through payments are to be maintained for two to three years. HCFA does not have the authority to incorporate technology into APC payments earlier. This period of time is meant to allow for sufficient experience to determine the amount by which the appropriate APC should be adjusted.

*Question:* I am under the impression that one of HCFA's priorities is to publish a final regulation on a new Medicare ambulance fee schedule. What steps will you take to ensure that the final rule will meet the health care needs of all Medicare beneficiaries so they will receive safe and adequate ambulance services?

*Answer:* The new ambulance fee schedule was mandated by the Balanced Budget Act of 1997 (BBA), which also directed that it be developed through a negotiated rulemaking process. The negotiated rulemaking committee included representatives of all types of ambulance and emergency medical service providers and interests, including hospital-based and independent ambulance companies, volunteer and municipal entities, emergency physicians, fire chiefs and firefighters, providing ground and air ambulance services in urban and rural areas. In establishing the parameters of the fee schedule, these committee members carefully considered the needs of all Medicare beneficiaries, which will be reflected in the final regulation.

While the new fee schedule will result in payment changes for some providers, it will be phased-in (as required by the BBA) over a multi-year period so as to give



providers ample time to adjust to the new rates and procedures. I expect that the regulation will be issued shortly, hopefully in a matter of weeks.

I will monitor this process closely to ensure that it is meeting the needs of our beneficiaries.

*Question:* What do you plan to do administratively to guarantee that beneficiaries continue to have access to breakthrough technologies, like brachytherapy, after the transitional pass-through payment period ends? How can HCFA ensure that the prospective payment system will appropriately reflect changes in technology and treatment down the road?

*Answer:* I was involved extensively in technology issues in my previous position with the Federation of American Hospitals. As Administrator, I will work to ensure that all of our payment systems are as responsive as possible to changes in technology. I agree that prospective payment systems (PPS), such as the outpatient system, should not be a barrier to the introduction of new technology. Appropriate adjustments should be made in our payment systems as quickly as possible to reflect developing technology and I will work to improve that process. However, I am very concerned that the outpatient pass-through system is not functioning as intended, and I would welcome your input as we work to improve the system.

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